



**To:** National Independent Automobile Dealers Association  
**From:** Shaun K. Petersen  
**Re:** March 2014 Regulatory Update  
**Date:** April 5, 2014

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**I. Consumer Financial Protection Bureau**

- a. The CFPB released a report indicating that consumer complaints rose more than 80% from 2012 to 2013.
- b. Debt Collection Report  
The CFPB issued a report to Congress specific to debt collection related complaints received by the Bureau and FTC. The Bureau acknowledges in its report that all complaints may not be legitimate. The top three complaint were about collectors contacting consumers about debt they do not owe, collectors threatening illegal action, and collectors using aggressive communication tactics. Although the Bureau mentioned automotive loans as a source of collection activity and complaints, the Bureau did not provide any statistics showing the number of complaints relative to automotive loans or that automotive loans were a source of the issues identified in the report.

A copy of the report can be found here:

[http://files.consumerfinance.gov/f/201403\\_cfpb\\_fair-debt-collection-practices-act.pdf](http://files.consumerfinance.gov/f/201403_cfpb_fair-debt-collection-practices-act.pdf)

- c. Texas Republican Congressman Jeb Hensarling called on the CFPB to end its closed door meeting of the Consumer Advisory Board and make all of their advisory board meetings transparent. He also sent a letter to the CFPB demanding complete responses to the letters that the Congress had sent over the past year asking for evidence and additional information on the methodology the Bureau is using in its disparate impact analysis in the indirect auto lending sphere. A copy of the letter can be found here:  
<http://www.cfpbmonitor.com/files/2014/03/Committee-on-Financial-Services-letter-dated-March-7-2014.pdf>

**II. Department of Justice**

No significant activity.

**III. Department of Labor**

No significant activity.

**IV. Environmental Protection Agency**

- a. EPA settled an action against a Chinese powersports company and its related U.S. distributor related to allegations that the vehicles did not meet US emissions standards. The companies have agreed to recall and replace fuel tanks that will better control gasoline vapors in approximately 1,000 vehicles and take other steps to control pollution stemming from the illegal import of over 12,000 recreational vehicles and highway motorcycles. These motor vehicles were manufactured in China and imported without the required certification indicating that emissions would meet federal standards.

**V. Federal Trade Commission**

- a. 2013 Annual Highlights

The FTC released highlights of the Commission's work during 2013 including a synopsis on key enforcement actions, policy decisions, and education efforts. The significant actions highlighted by the Commission as it relates to the automotive sector were reported in last year's regulatory reports.

The highlights can be found here: <http://www.ftc.gov/reports/annual-highlights-2013>

- b. Illinois Senate Bill to lift prohibition on Sunday auto sales

At the request of an Illinois state senator, the FTC commented on a bill pending in the Illinois legislature that would lift the current prohibition on Sunday auto sales in Illinois. The FTC commented that the current prohibition restrains competition and does not allow consumers increased opportunity to shop and receive the best deal.

- c. The one dealer that did not agree to settle charges of advertising violations as part of Operation Steer Clear announced in January agreed to settle the case.

- d. Lawsuit for failing to disclose Buyers Guide

The FTC sued an Arkansas dealer and its two principals for failing to display Buyers' Guides on its used vehicles offered for sale. The dealer was part of a sweep conducted by the FTC in the Jonesboro, Arkansas area in November 2012. At that time, the FTC alleges that it visited the dealership and found the dealership was not displaying guides at that time. In January 2013, the FTC sent warning letters to 11 dealerships, including the one just sued, informing them that they were not complying with the Used Car Rule. The FTC alleges that all of the other dealerships except this one came into substantial compliance and were displaying guides.

e. Background check information for employers

The FTC issued a guide to assist employers conducting background checks on prospective employees comply with applicable laws. The guide can be found here: <http://business.ftc.gov/documents/0487-background-checks-what-employers-need-know>

**VI. Internal Revenue Service**

No significant activity.

**VII. National Highway Traffic Safety Administration**

- a. NHTSA issued a rule that will require rear visibility technology in all new vehicles under 10,000 pounds by May 2018.

**VIII. National Motor Vehicle Title Information System**

- a. The National Advisory Board held a conference call in late March. Each board member was asked to identify two opportunities that should be considered to enhance the value of NMVTIS and what the most important priority should be for NMVTIS. On behalf of NIADA, I identified these two opportunities: 1) embark on a more systematic marketing campaign directed to end users, particularly consumers that would make NMVTIS more of a presence in the marketplace, and 2) pursuit of a nationwide electronic titling system that would use NMVTIS as a key component. The top priority I identified was to continue to work towards having all states fully participate.



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March 28, 2014

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

### **MAP21 Reauthorization: House of Representatives**

As previously reported, work has begun on reauthorization of MAP-21 that will expire on September 30, 2014. We will monitor that process carefully as it was during the last reauthorization that various issues impacting the industry were addressed – recalls, NHTSA requirements, etc.

Chairman Shuster announced previously that he wants a bill passed by the House by the August recess in order to allow sufficient time to conference with the Senate by the September 31 expiration date. He anticipates making substantive changes to the current stricture of the Federal-aid highway program.

On March 5, the Panel on Public-Private Partnerships of the House Committee on Transportation and Infrastructure met to receive testimony on the role public-private partnerships play in the delivery of highway and transit projects. The Panel heard testimony from Joseph Kile, Assistant Director for Microeconomic Studies, Congressional Budget Office; James M. Bass, Interim Director and Chief Financial Officer, Texas Department of Transportation; Phillip Washington, General Manager, Regional Transportation District; and Richard Fierce, Senior Vice President, Flour, on behalf of the Associated General Contractors of America. Public-Private Partnerships (P3s) are contractual agreements between public- and private sector entities that allow for the procurement and delivery of a facility or service for public use. P3s vary widely in their structure, resulting in a range of involvement, scope of responsibility, and degree of risk assumed by the private sector in the project.

The surface transportation system provides the physical platform to move people and goods, which facilitates economic growth and job creation, ensures global competitiveness, and supports national security. In addition, it affords Americans a good

quality of life by enabling them to get to work, conduct business, and visit family and friends. The vast majority of this system has been built via traditional delivery methods, whereby public entities, such as state departments of transportation, local governments, and public transit agencies are responsible for designing, engineering, constructing, maintaining, and operating surface transportation assets. The funding for highway and transit projects has been derived from various sources, including, but not limited to, federal funding, state funding, local funding, and proceeds from municipal bond markets. However, public entities have begun to utilize public-private partnerships to address their highway and transit needs.

On March 12, The Subcommittee on Highways and Transit of the House Committee on Transportation and Infrastructure met to receive testimony related to implementing MAP-21 and the FY15 Budget Request for Surface Transportation. At the hearing the Subcommittee reviewed the progress of the U.S. Department of Transportation (DOT) toward implementing MAP-21 and the DOT's surface transportation priorities for FY15 as contained in the President's Budget. The Subcommittee heard from Acting Under Secretary for Policy Peter Rogoff; Acting Administrator Greg Nadeau of the Federal Highway Administration (FHWA); Acting Administrator Therese McMillan of the Federal Transit Administration (FTA); Administrator Anne Ferro of the Federal Motor Carrier Safety Administration (FMCSA); and, Acting Administrator David Friedman of the National Highway Traffic Safety Administration (NHTSA). On March 5th, the President released his fiscal year 2015 budget request for the Department. The request also included the Administration's vision for a four-year, \$302 billion surface transportation reauthorization bill.

On March 13, Transportation and Infrastructure Committee Chairman Shuster and Committee leaders convened a bipartisan roundtable meeting to discuss the perspective of non-federal partners and their policy priorities for the next surface transportation reauthorization bill. Federal surface transportation programs were most recently reauthorized in the Moving Ahead for Progress in the 21st Century Act, which was enacted on July 6, 2012. MAP-21 expires in September, and this roundtable is part of the Committee's ongoing process for developing the next bill. In addition to Members of the Committee, roundtable participants included: Frederick G. "Bud" Wright, Executive Director, American Association of State Highway and Transportation Officials (AASHTO); Michael Melaniphy, President and CEO, American Public Transportation Association (APTA); DeLania Hardy, Executive Director, Association of Metropolitan Planning Organizations (AMPO); and, Matthew Chase, Executive Director, National Association of Counties (NACo).

### **MAP-21 Reauthorization: The Senate**

Chairman Boxer announced previously that she wants a draft bill by next month. All indications are that the Committee is on target for doing so. While Boxer's preference is basically to extend the current MAP-21 for the next five to six years with some technical changes, her deliberations with Ranking Member Vitter might result in a different outcome.

On March 6, the U.S. Senate Committee on Commerce, Science, and Transportation's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a hearing titled, "Enhancing Our Rail Safety: Current Challenges for Passenger and Freight Rail." The hearing examined the current state of safety on the nation's passenger and freight rail networks, including a discussion of recent high-profile rail accidents, positive train control implementation, and other key safety challenges. Witnesses were: Joseph Szabo, Administrator, Federal Railroad Administration; Cynthia Quarterman, Administrator, Pipeline and Hazardous Materials Safety Administration; Christopher Hart, Vice Chairman, National Transportation Safety Board; Geoffrey Blackwell, Chief, Office of Native Affairs and Policy, Federal Communications Commission; Prentiss Searles, Group Director, Downstream and Industry Operations, American Petroleum Institute; and, Ed Hamberger, President and Chief Executive Officer, Association of American Railroads.

Also on March 6, the Senate Committee on Banking, Housing and Urban Affairs held a hearing on "MAP-21 Reauthorization: The Federal Role and Current Challenges to Public Transportation." The witnesses will be: The Honorable Gregory H. Hughes, Chairman, Board of Trustees, Utah Transit Authority and Majority Whip, Utah House of Representatives; Mr. Michael P. Melaniphy, President, American Public Transportation Association; Ms. Barbara K. Cline, President, Board of Directors, Community Transportation Association of America, and Executive Director, Prairie Hills Transit; and Mr. Larry Hanley, International President, Amalgamated Transit Union.

On March 27, the Senate Environment and Public Works Committee held a hearing on "State and Local Perspectives on Transportation Priorities and Funding. The Committee heard from state and local officials and transportation stakeholders about the importance of Federal transportation funding and their priorities for the reauthorization of MAP-21. The witnesses were Michael Lewis, Director, Rhode Island Department of Transportation; Sue Minter, Deputy Secretary, Vermont Agency of Transportation; Greg Ballard, Mayor, City of Indianapolis, Indiana; Mick Cornett, Mayor, Oklahoma City; Bill Fontenot, President, St. Landry's Parish, Louisiana; John Wilcox, Chairman, Converse County Commission, Wyoming; and, Dave Gula, Principal Partner, Wilmington Area Planning Council, Delaware.

### **Highway Trust Fund; Pending Shortfall**

According to the US Department of Transportation, and the Congressional Budget Office it is likely that the Highway Trust Fund's Highway Account will run out of money in late July, just over a month before FY14 ends. The Highway Trust Fund is the principal mechanism for funding Federal highway and transit programs through revenue generated by user fees like the Federal gas tax. The Highway Account is projected to end the fiscal year in September 2014 \$700 million in the hole. *DOT and CBO* note that the shortfall is two weeks earlier than last month's figures, which showed the anticipated red ink in the second or third week of August. The transportation funding crisis is of particular concern for transportation projects throughout the nation.

## **Rental Cars Recall**

No additional legislative developments. On 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. 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.

## **Legislation of Interest**

### **H.R. 3193, Consumer Financial Protection Safety and Soundness Improvement Act of 2013**

Introduced by Congressman Duffy (R-WI-7) on September 26, 2013, passed the House on Feb. 27, 2014, and amends the Consumer Financial Protection Act to authorize the Chairperson of the Financial Stability Oversight Council to issue a stay of, or set aside, any regulation issued by the Consumer Financial Protection Bureau (CFPB) upon the affirmative vote of the majority of Council members (currently, two-thirds), excluding the Director of the Bureau.

Requires the Council, upon the petition of a member agency of the Council, to set aside a final regulation prescribed by the CFPB if the Council decides that such regulation is inconsistent with the safe and sound operations of U.S. financial institutions. (Currently the Council is merely authorized, upon petition, to set aside a final regulation if it would put the safety and soundness of the U.S. banking system or the stability of the U.S. financial system at risk). Repeals the prohibition against Council set-aside of a regulation after expiration of a specified time period, and mandatory dismissal of a petition if the Council has not issued a decision within such time period. Requires the CFPB Director, when prescribing a rule under federal consumer financial laws, to consider its impact upon the financial safety or soundness of an insured depository institution.

Status Update: No change since the last report.

### **H.R. 2543, End Discriminatory State Taxes for Automobile Renters Act of 2013**

Introduced on June 27 by Congressman Cohen (D-TX) with 6 cosponsors. On September

13 the bill was referred to the Subcommittee on Regulatory Reform, Commercial and Antitrust Law of the Judiciary Committee. The bill prohibits states or local governments from levying or collecting a discriminatory tax (generally, a tax or tax assessment that is applicable to the rental of motor vehicles or motor vehicle businesses or property, but not to the majority of other rentals of tangible personal property within a state or locality) on the rental of motor vehicles, motor vehicle rental businesses, or motor vehicle rental property.

Status Update: No change since the last report.

### **S. 1585, Providing Replacement Automobiles for Certain Disabled Veterans and Members of the Armed Forces**

Introduced on October 28 by Senator Sanders (I-VT) with no cosponsors. Hearing held by the Committee on Veterans Affairs on October 30. The bill would increase the amount of government assistance from \$18,900 to \$30,000 for military members to acquire a replacement vehicle for vehicles destroyed in disasters, provided that the eligible member does not receive property insurance compensation for the loss..

Status Update: No change since the last report.

### **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 44), the bill was also referred to the Committee on Banking, Housing, and Urban Affairs.

Status Update: One additional sponsor added to Senate bill 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. A Subcommittee hearing was held on the bill on March 11, 2014. 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: Subcommittee hearing held 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 (17) 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: Four additional cosponsors added since the last report.