



**To: National Independent Automobile Dealers Association**  
**From: Shaun K. Petersen**  
**Re: January 2015 Regulatory Update**  
**Date: January 31, 2015**

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**I. Consumer Financial Protection Bureau**

A. Consumer Advisory Board Applications

The CFPB announced that it accepting applications for appointment to the Consumer Advisory Board. Membership on the Board includes representatives of consumers, communities, the financial services industry and academics. Applications must be completed not later than February 28, 2015. The application can be found here: <https://www.federalregister.gov/articles/2015/01/16/2015-00565/consumer-advisory-board-and-councils-solicitation-of-applications-for-membership>.

**II. Department of Justice**

A. Two Men Purported To Be Used Car Dealers Indicted

Two men were indicted in New York and Philadelphia for offenses related to a long-running odometer tampering and money laundering scheme. The indictments allege that the men devised a scheme to defraud buyers of used motor vehicles by misrepresenting the mileage of approximately 690 vehicles they sold beginning as early as 2006 and through at least 2011. The men allegedly used fictitious dealer names to purchase high-mileage, used motor vehicles from a national vehicle leasing company. They then conspired to alter the odometers to reflect false lower mileages. Titles were altered to reflect the false lower mileages and as a result. The men then sold the vehicles at auctions in Pennsylvania and New Jersey using various dealership names, including Chase Auto Center and Conestoga City Autos. In some instances, the title indicated mileage more than 100,000 miles less than the true mileage of the vehicle and as a result, the defendants received inflated sales prices for the vehicles they sold.

**III. Department of Labor**

No significant activity.

**IV. Environmental Protection Agency**

No significant activity.

**V. Federal Trade Commission**

A. Used Car Rule Comments

The FTC granted an extension of time to file comments to the proposed changes to the Used Car Rule. Comments are now due not later than March 17.

B. Holder in Due Course Rule Review

The FTC announced that it will be conducting a review and will solicit comments on the Holder in Due Course Rule in 2015.

C. Study on Credit Report Accuracy

The FTC issued a report on credit report accuracy. The report is a follow-up to its 2012 study in which nearly 1,000 consumers reviewed their credits reports from the three major nationwide credit reporting agency (CRA) for accuracy. Some of those consumers who initiated a dispute with a CRA were provided with new credit reports and credit scores after completion of the dispute process. New credit reports were compared against old reports to determine whether the reports were modified as a result of the dispute.

In the follow-up study, the FTC examined whether previously removed negative information reappeared on a credit report. The FTC also considered whether consumers alleged that reports were inaccurate after the CRA verified the disputed information was accurate.

The FTC determined that many consumers believed their reports continued to be inaccurate despite the previous dispute. Several consumers who had at least one unresolved dispute, stated that they did not receive a notification from the CRA that the item was not changed. Many consumers who stated they received a notification indicated that the CRA did not provide an explanation for the lack of modification.

The FTC recommends that CRAs review and improve the notification process when disputes are resolved to consumers receive the notice and explanation of the investigation results.

## **VI. Internal Revenue Service**

### **A. Free File Launched**

The IRS and the Free File Alliance today announced the launch of Free File, which makes brand-name tax software products and electronic filing available to most taxpayers for free. Free File is available only at [IRS.gov/FreeFile](https://www.irs.gov/FreeFile) for those making \$60,000 or less. There are 14 software products from which to choose.

## **VII. National Highway Traffic Safety Administration**

### **A. Prior Recall Fix Not Working, Follow-up Recall Issued**

More than 2.12 million Acura MDX, Dodge Viper, Jeep Grand Cherokee and Liberty, Honda Odyssey, Pontiac Vibe, Toyota Corolla, Toyota Matrix and Toyota Avalon models made in the early 2000s were recalled for a second time due to a defect that may cause airbags to deploy inadvertently. The original recall was intended to address a problem with an electronic component manufactured by TRW that caused some airbags to deploy inadvertently. NHTSA determined that the original attempt to fix the defect proved ineffective in some vehicles.

Owners are encouraged to take immediate action because 1 million Toyota and Honda vehicles involved in these new recalls are also subject to the Takata airbag recall.

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

### **A. Advisory Board meeting**

The next advisory board meeting is scheduled for February 23 in Washington, DC.

## **IX. Democrat Attorneys General**

### **A. Winter Meeting**

I attended the Winter Meeting of the Democrat Attorneys General Association in Las Vegas January 22-24. There were 7 attorneys general present, many of whom brought staff with them. Among those most interested in further discussion with the association was the Oregon Attorney General and the first elected attorney general from Washington, D.C.

**X. State issues**

A. Recalls

The New Jersey Assembly has passed a bill that would require motor vehicle dealers to pull recall information from the NHTSA recall database and disclose it to consumers prior to sale. The bill has not yet been heard in the Senate. NIADA is currently examining the bill's language to determine our position.

B. GPS/Starter Interrupt Devices

The New Jersey Assembly has also passed a bill that would ban the use of GPS/starter interrupt devices as the condition of a motor vehicle financing agreement. NIADA has been in communication with NJIADA and the Payment Assurance Technology Association (PATA) on strategies to oppose the bill.

The Virginia General Assembly has introduced a bill that would ban the use of starter interrupt devices as a condition of a motor vehicle financing agreement. NIADA has worked with VIADA and PATA to express opposition to the bill. NIADA submitted a letter in opposition to the bill's sponsor.

The New York and Nevada legislatures are considering similar bills. We will continue to monitor those bills and provide appropriate comments.



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January 30, 2015

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

### **114th Congress: The Leadership**

The first organizational order of business for the new Congress was the election of its leaders, as follows. Currently, committee and subcommittee sizes, ratios, and member assignments are being finalized. Some committees are ahead of others in terms of organizing. The membership of each committee/subcommittee of interest is included after this section.

Senate:

Senate President pro tempore  
Orrin Hatch (R)  
President: Joe Biden (D)  
President pro tempore: Orrin Hatch (R)  
President pro tempore emeritus: *Patrick* Leahy (D)

Majority (Republican) leadership  
Majority Leader: Mitch McConnell  
Assistant Majority Leader (Majority Whip): John Cornyn  
Conference Chairman: John Thune  
Conference Vice Chair: Roy Blunt  
Senatorial Committee Chair: Roger Wicker  
Policy Committee Chairman: John Barrasso

Minority (Democratic) leadership  
Minority Leader and Caucus Chair: Harry Reid  
Assistant Minority Leader (Minority Whip): Dick Durbin  
Caucus Vice Chair and Policy Committee Chair: Chuck Schumer  
Caucus Secretary: Patty Murray

Senatorial Campaign Committee Chair: Jon Tester  
Policy Committee Vice Chair: Debbie Stabenow  
Policy Committee Strategic Policy Adviser: Elizabeth Warren  
Policy Committee Policy Development Adviser: Mark Warner  
Steering and Outreach Committee Chair: Amy Klobuchar  
Steering and Outreach Committee Vice Chair: Jeanne Shaheen  
Chief Deputy Whip: Barbara Boxer

House of Representatives:

Majority (Republican) leadership  
Speaker: John Boehner  
Majority Leader: Kevin McCarthy  
Majority Whip: Steve Scalise  
Majority Chief Deputy Whip: Patrick McHenry  
Conference Chair: Cathy McMorris Rodgers  
Conference Vice-Chair: Lynn Jenkins  
Conference Secretary: Virginia Foxx  
Campaign Committee Chairman: Greg Walden  
Policy Committee Chairman: Luke Messer  
Senior Deputy Whips: Kristi Noem, Dennis Ross, Aaron Schock, Steve Stivers, Ann Wagner

Minority (Democratic) leadership  
Minority Leader: Nancy Pelosi  
Minority Whip: Steny Hoyer  
Assistant Democratic Leader: Jim Clyburn  
Caucus Chairman: Xavier Becerra  
Caucus Vice-Chairman: Joe Crowley  
Campaign Committee Chairman: Ben Ray Luján  
Steering and Policy Committee Co-Chairs: Rosa DeLauro (Steering) and Donna Edwards (Policy)  
Organization, Study, and Review Chairman: Karen Bass  
Policy and Communications Chairman: Steve Israel  
Senior Chief Deputy Minority Whip: John Lewis  
Chief Deputy Minority Whips: G. K. Butterfield, Diana DeGette, Keith Ellison, Jan Schakowsky, Kyrsten Sinema, Debbie Wasserman Schultz, Peter Welch

### **Key House Committees of Jurisdiction**

In the House of Representative, the key committees of interest to the Association are the Committee on Transportation and Infrastructure with jurisdiction over MAP-21 reauthorization (which could be the vehicle for the recall issue), NHTSA, and motor vehicle safety (distracted driver, seat belts, drunk driving, etc.); the Energy and Commerce Committee with jurisdiction over motor vehicles and consumer issues related thereto as well as shared jurisdiction over NHTSA; and, the Financial Services Committee with jurisdiction over the Consumer Financial Protection Bureau (CFPB), the FTC, and Dodd-Frank. Within these committees, the focus is on

the relevant subcommittee of jurisdiction. The membership of those for the new Congress follows. Note: other House committees are also important but play a secondary role regarding the Association's priority issues. Examples of those committees are the Judiciary Committee with jurisdiction over the internet sales issue and the Ways and Means Committee with jurisdiction over tax issues in general.

(1) Transportation and Infrastructure Committee

*Note: Bill Shuster (PA) is still the chairman of the Full Committee*

Subcommittee on Highways and Transit: MAP-21 reauthorization, etc.

Sam Graves, Missouri, Chairman

Eleanor Holmes Norton, District of Columbia, Ranking Member

Republicans:

Don Young, Alaska

John J. Duncan, Jr., Tennessee

John L. Mica, Florida

Frank A. LoBiondo, New Jersey

Duncan Hunter, California

Eric A. "Rick" Crawford, Arkansas

Lou Barletta, Pennsylvania

Blake Farenthold, Texas

Bob Gibbs, Ohio

Richard L. Hanna, New York

Daniel Webster, Florida

Jeff Denham, California

Reid J. Ribble, Wisconsin

Thomas Massie, Kentucky

Tom Rice, South Carolina

Mark Meadows, North Carolina

Scott Perry, Pennsylvania

Rodney Davis, Illinois

Rob Woodall, Georgia

John Katko, New York

Brian Babin, Texas

Cresent Hardy, Nevada

Ryan A. Costello, Pennsylvania

Garret Graves, Louisiana

Mimi Walters, California

Barbara Comstock, Virginia

Bill Shuster, Pennsylvania (Ex Officio)

Democrats:

Jerrold Nadler, New York

Eddie Bernice Johnson, Texas  
Steve Cohen, Tennessee  
Albio Sires, New Jersey  
Donna F. Edwards, Maryland  
Janice Hahn, California  
Richard M. Nolan, Minnesota  
Ann Kirkpatrick, Arizona  
Dina Titus, Nevada  
Sean Patrick Maloney, New York  
Elizabeth H. Esty, Connecticut  
Lois Frankel, Florida  
Cheri Bustos, Illinois  
Jared Huffman, California  
Julia Brownley, California  
Michael E. Capuano, Massachusetts  
Grace F. Napolitano, California  
Corrine Brown, Florida  
Daniel Lipinski, Illinois  
Peter A. DeFazio, Oregon (Ex Officio)

(2) Energy and Commerce Committee

*Note: Joe Barton (TX) and David McKinley (WV) are still members of the Full Committee*

Subcommittee Commerce, Manufacturing and Trade: Commercial practices (the Federal Trade Commission) including consumer affairs and consumer protection, consumer product safety (the Consumer Product Safety Commission); and, motor vehicle safety.

Republicans

Michael C. Burgess M.D. (TX), Chairman  
Leonard Lance (NJ), Vice Chairman  
Marsha Blackburn (TN)  
Gregg Harper (MS)  
Brett Guthrie (KY)  
Pete Olson (TX)  
Mike Pompeo (KS)  
Adam Kinzinger (IL)  
Gus Bilirakis (FL)  
Susan Brooks (IN)  
Markwayne Mullin (OK)  
Fred Upton (MI) (Ex Officio)

Democrats

Jan Schakowsky (IL), Ranking Member  
Yvette D. Clarke (NY)  
Joseph P. Kennedy, III (MA)

Tony Cardenas (CA)  
Bobby L. Rush (IL)  
G. K. Butterfield (NC)  
Peter Welch (VT)  
Frank Pallone, Jr. (NJ) (Ex Officio)

(3) Financial Services Committee

*Note: Steve Stivers (OH) is still a member of the Full Committee*

Subcommittee on Financial Institutions and Consumer Credit: CFPB and Dodd-Frank

Republicans

Randy Neugebauer, Chairman  
Steve Pearce, Vice Chairman  
Frank Lucas  
Bill Posey  
Mike Fitzpatrick  
Lynn Westmoreland  
Blaine Luetkemeyer  
Marlin Stutzman  
Mick Mulvaney  
Robert Pittenger  
Andy Barr  
Keith Rothfus  
Bob Dold  
Frank Guinta  
Scott Tipton  
Roger Williams  
Mia Love

Democrats

Wm. "Lacy" Clay (MO-01), Ranking Member  
Kyrsten Sinema (AZ -09)  
Denny Heck (WA-10)  
Michael E. Capuano (MA-07)  
John K. Delaney (MD-06)  
Juan Vargas (CA-51)  
Carolyn B. Maloney (NY-12)  
Nydia M. Velázquez (NY-07)  
Brad Sherman (CA-30)  
Gregory W. Meeks (NY-05)  
Rubén Hinojosa (TX-15)  
Stephen F. Lynch (MA-08)  
David Scott (GA-13)

## **Key Senate Committees of Jurisdiction**

In the Senate, the key committees of interest to the Association are the Committee on Environment and Public Works with jurisdiction over MAP-21 reauthorization (which could be the vehicle for the recall issue), NHTSA, and motor vehicle safety (distracted driver, seat belts, drunk driving, etc.); the Commerce Committee with jurisdiction over motor vehicles and consumer issues related thereto as well as shared jurisdiction over NHTSA; and, the Banking Committee with jurisdiction over the Consumer Financial Protection Bureau (CFPB), the FTC, and Dodd-Frank. Within these committees, the focus is on the relevant subcommittee of jurisdiction. The membership of those for the new Congress follows. Note: other Senate committees are also important but play a secondary role regarding the Association's priority issues. Examples of those committees are the Judiciary Committee with jurisdiction over the internet sales issue and the Finance Committee with jurisdiction over tax issues in general.

### (1) Environment and Public Works Committee

Subcommittee on Transportation and Infrastructure: MAP-21 reauthorization, etc.

David Vitter (LA), Chair

No other assignments as yet

### (2) Commerce, Science and Transportation Committee

(a) Subcommittee on Consumer Protection, Product Safety, and Insurance: Consumer safety

No assignments as yet

(b) Subcommittee on Surface Transportation: Motor vehicle safety

Deb Fischer (NE), Chair

No other assignments as yet

### (3) Banking, Housing and Urban Affairs Committee

Subcommittee on Financial Institutions and Consumer Protection: CFPB and Dodd-Frank

No assignments as yet

## **Reforming CFPB Indirect Auto Financing Guidance Act**

New Congress Status: In the House, the plan is to have a bill introduced by mid-February at the latest. Congressman Perlmutter (D-CO-7, the cosponsor of the bill from the previous Congress, is again committed to being an original sponsor. On the Republican side, instead of Congressman Stutzman (R-IN-3), there may be another lead sponsor. Not yet decided. Once introduced, the goal is to secure "three digit" cosponsors by the end of March. Unlike last year when the plan was to not move ahead legislatively but put pressure on the CFPB to rescind its guidance (which it has not done to date), this time the strategy is to move legislation to enactment absent positive action by the CFPB. Accordingly, again unlike last year when action was deferred in the Senate, this year the plan is to have a bill introduced in the Senate by the end of March by bipartisan

representation from the Committee on Banking, Housing, and Urban Affairs, with jurisdiction over the CFPB. NIADA is working with NADA and other stakeholders on this issue.

Last Congress: H.R.5403, introduced on September 8 by Congressmen Stutzman (R-IN-3) and Perlmutter (D-CO- 7) and supported by the Association, was not acted upon during the lame duck session. The plan was to garner as many cosponsors as possible on a bipartisan basis to put pressure on the CFPB to do administratively what the bill would require by law. Accordingly, Senate action was deferred pending that. To date, the CFPB has not changed its policy on this issue.

In March 2013 the CFPB issued guidance to eliminate dealers' flexibility to discount the interest rate offered to consumers to finance vehicle purchases. The CFPB is attempting to change the \$905 billion auto loan market and limit market competition without prior public comment and without analyzing the impact of its guidance on consumers. With the CFPB's actions likely to raise the cost of credit for car buyers, H.R. 5403 was developed on a bipartisan basis to rescind the CFPB's auto finance guidance and make the Bureau more transparent and accountable when issuing future auto finance guidance. A majority of car buyers choose to finance their purchases through optional, indirect financing at dealerships. Dealers often discount these interest rates to earn their customers' business. The CFPB guidance attempts to pressure auto finance sources into changing the way they compensate dealers to a "flat fee" that dealers cannot discount for their customers. This action would eliminate a dealer's ability to "meet or beat" a competitor's finance rates and significantly limits the market competition that frequently provides customers a lower interest rate than those offered by banks or credit unions.

The CFPB claims it is basing this industry change on its belief that negotiated interest rates create a "significant risk" of unintentional "disparate impact" discrimination. Since there are a variety of legitimate business-related factors that can affect finance rates (such as beating a competing rate), there have been numerous calls for the CFPB to release the methodology it uses to measure whether disparate impact exists. Despite eleven bipartisan Congressional letters to the CFPB, it has not publicly provided essential details of its methodology to substantiate its guidance. The bill would require the CFPB to follow a transparent process when issuing auto finance guidance. The CFPB issued its auto finance guidance without prior notice, public comment, a hearing, or transparency. This bill would rescind the 2013 guidance and require public participation for future auto finance guidance before it is issued.

### **Marketplace and Internet Tax Fairness Act**

New Congress Status: Congressman Bob Goodlatte (R-VA-6), Chairman of the House Judiciary Committee, and Congresswoman Anna Eshoo (D-CA-18) have developed a discussion draft bill on the remote sales tax issue. Per efforts of the Association, the bill specifies that states may not impose use tax on a purchaser who paid sales tax at the origin rate at the time of purchase. It specifically exempts aircraft, vehicles, vessels and business purchases. These are all cases in which states currently collect today, either when the vehicle is registered or because businesses pay their use tax. As a general rule, where states are successfully collecting today, the bill preserves the status. A summary of the text refers to the exemption as preventing "double taxation."

Last Congress: S.2609, introduced by Senator Enzi (R-WY) and opposed by the Association, authorized each member state under the Streamlined Sales and Use Tax Agreement (the multi-state agreement for the administration and collection of sales and use taxes adopted on November 12, 2002) to require all sellers not qualifying for a small-seller exception (applicable to sellers with annual gross receipts in total U.S. remote sales not exceeding \$1 million) to collect and remit sales and use taxes with respect to remote sales under provisions of that Agreement, but only if changes to such Agreement made after the enactment of this Act are not in conflict with the minimum simplification requirements of this Act (providing for a single state entity for all tax administration, audits, and returns of remote sales sourced to the state). The Act defines "remote sale" as a sale of goods or services into a state in which the seller would not legally be required to pay, collect, or remit state or local sales and use taxes unless provided by this Act. The Association's opposition was centered on the potential for duplicate collection/ "double taxation" on the post sale registration of motor vehicles.

The bill also amended the Internet Tax Freedom Act to extend until November 1, 2024: (1) the ban on state and local taxation of Internet access and on multiple or discriminatory taxes on electronic commerce, and (2) the exemption from such ban for states that generally imposed and actually enforced a tax on internet access prior to October 1, 1998. House bill, H.R. 684, introduced by Congressman Womack (R-AR-3) was the companion bill. The Goodlatte-Eshoo draft does not address this issue.

### **Rental Cars/Used Cars Recall**

New Congress Status: No bill has been introduced on this issue to date. NIADA continues to monitor the Senate Commerce Committee for possible inclusion of this issue via MAP-21 reauthorization.

Last Congress: Legislative action did not occur during the lame duck session on the issue of "recalls," specifically three pieces of legislation: S.921, the "Raechel and Jacqueline Houck Safe Rental Car Act of 2013;" S. 2559, the "Motor Vehicle Safety Act of 2014;" and, the "GROW AMERICA Act."

As previously reported, while there has been no action for some time on S.921 that may change next year as the Senate Commerce Committee may include in its title of the MAP-21 reauthorization bill. We have been told that the title will include "something" on the rental car recall issue probably much from S.921 It was the death of the Houck sisters, California constituents of Senator Boxer, which was the impetus for S. 921. In its reported form, S. 921 is opposed by both NIADA and NADA. NAAA has taken no position on the legislation. The objections, which also apply to S.2559 and the Administration's GROW AMERICA bill, are that the bill is overly broad and premature. Basically, the bill prohibits the rental, sale or lease of a motor vehicle that is subject to a recall. While the intent, and source of the problem as evidenced by the Houck sisters' experience, is to reign in the "big" rental car companies, the text defines a rental car company as an entity "of 5 or more motor vehicles that are used for rental purposes." This affects some of NIADA members – in a survey of its members, of those who responded, 65.4% said that they have a rental fleet of more than 5 units. In addition, the bill makes no

distinction between safety related recall notices and non-safety related ones. Also, it assumes a process that is based on a Federally-mandated system of accurate and comprehensive recall data. Such a system does not yet exist. Lastly, it begs the question of “remedying the defect” by not recognizing the realities of the “auto parts business” – timing, cost, liability, etc. NIADA is on record raising its objections to the bill. In doing so, NIADA requested that language be included in the bill that would exempt small business used car dealers, as defined in the SBA regulations. We continue working with NADA (also seeking an exemption), in light of possible Commerce Committee action.

Coupled with S.921 was S. 2559 introduced on by Senator Rockefeller, former Chair of the Senate Commerce Full Committee and now retired. That bill includes two additional troubling issues. The first is a fee that would be imposed on car manufacturers to provide additional funding to the National Highway Traffic Safety Administration (NHTSA) to finalize the national recall database and to enhance its overall safety capabilities. NIADA opposes the fee because of its trickle down impact on dealers, especially small business dealers, and consumers and also because it may open the door to direct fees being imposed on used car dealers in the future. More than this issue, however, the Rockefeller bill includes a prohibition against used car dealers selling, leasing or renting a vehicle subject to a recall unless and until the defect is remedied or the consumer is provided notification of it. Rockefeller is taking action after a series of deaths resulted from faulty ignition switches in GM vehicles, and a wave of recent recalls from various automakers, which have highlighted gaps in NHTSA’s ability to meet its mission of saving lives, preventing injuries, and reducing crashes on roads. Rockefeller’s legislation is similar to H.R. 4364, the Motor Vehicle Safety Act of 2014, introduced in April 2014 by Rep. Henry Waxman (D-CA), also now retired from Congress.

Lastly, also as previously reported, included in the President’s proposed MAP-21 reauthorization bill, the “Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout American Act” or the GROW AMERICA Act,” is Section 4109, recall authority over rental car companies and used car dealers. The Senate Commerce Committee requested NIADA’s comments on Section 4109 and a letter was submitted. Section 4109 (a) would limit the sale, lease or rental of vehicles or equipment that are subject to “notification of a defect or noncompliance about a motor vehicle or new item of replacement equipment.” As drafted, the provision not only subjects rental car companies (dealerships with a rental car fleet of 5 vehicles or more) to the process currently applicable to new cars – which, we believe, was the intent of the provision – but it also goes way beyond that process by including notification of any defect related to a motor vehicle or replacement equipment whether or not the defect is safety related. Section 4109(b) would also limit the sale or lease of used motor vehicles subject to recalls. Both provisions are problematic: the first, because it affects small rental car operations and is broad in its application as it includes non-safety related recalls; and the second, because the notification process for learning that a vehicle is subject to a recall is flawed.

### **Automotive Employees Whistleblower Legislation**

New Congress Status: No bill has been introduced on this issue to date. NIADA is monitoring the discussions between Senators Thune and Nelson on this issue.

Last Congress: On November 20, Senator John Thune (R-SD), now Chairman of the Commerce, Science, and Transportation Committee, and Senator Bill Nelson (D-FL), now ranking member of the Committee, introduced S. 2949 that would incentivize employees from the automotive sector to voluntarily provide information on faulty products to the U.S. Department of Transportation (DOT) to prevent serious physical injuries and death. Senators Claire McCaskill (D-MO) and Dean Heller (R-NV), the leaders of the Commerce Committee's subcommittee on consumer protection, were also cosponsors of the bill as was Senator Klobuchar (D-MN).

The bill would allow employees or contractors of motor vehicle manufacturers, part suppliers, and dealerships to receive up to 30 percent of the monetary penalties resulting from a DOT or Justice Department enforcement action that totals more than \$1 million if they share original information not previously known to the DOT secretary relating to any motor vehicle defect, noncompliance, or any violation of any reporting requirement that is likely to cause risk of death or serious injury. The bill would take into account whether or not the whistleblower had the opportunity to report the problems internally, as well as the significance of the information. It would also protect whistleblowers' identities. The legislation is modeled after existing statutory whistleblower protections that encourage individuals to share information with the IRS and the SEC.

### **Annual Privacy Notice Requirement**

New Congress Status: No bill has been introduced on this issue to date. NIADA continues to stay in contact with Congressman Luekemeyer (R-MO-3) regarding his plans for this issue.

Last Congress: Last year the CFPB proposed some changes to the Privacy Rule, specifically that portion that deals with the providing an annual privacy policy. On July 14, NIADA submitted comments for the record noting that while the concept of removing the annual privacy policy requirement when there is no change to the document and the customer's information is not being shared with non-affiliated third parties has merit, the proposed delivery method which the CFPB proposes is flawed. The comments included specific concerns with requirements that hurt small businesses, for example, maintaining a dedicated toll free phone line. NIADA recommended to the Bureau that it support pending legislation that had passed the House of Representatives and was pending in the Senate. That legislation did not have such onerous requirements on small business.

The bills referenced are House-passed H.R. 749, the "Eliminate Privacy Notice Confusion Act" by Congressman Luekemeyer and Senate introduced S. 635, the "Privacy Notice Modernization Act of 2013" by Senator Brown (75 cosponsors) – that would, in general, eliminate a costly and duplicative requirement originally passed under the Gramm-Leach-Bliley Act that all financial institutions mail their customers a copy of their privacy notice each year even if there has been no change in their privacy policy. While NIADA supported both bills in concept, its preference was for enactment of House-passed H.R. 749 given some concerns over the one addition to that bill that was included in the Senate bill.

Both bills would remove the annual privacy notice requirement if an institution has not, in any way, changed its privacy policies or procedures. The bills did not exempt any institution from an initial privacy notice, nor did they allow a loophole for an institution to avoid issuing an updated notice. Notwithstanding this, the Senate bill added another qualifying condition for exemption - that customers are to be provided "access to such most recent disclosure in electronic or other form permitted by regulations prescribed under section 504." By this addition, we suspected that the Senate bill envisioned that financial institutions would post their privacy policy on their website or transmit it via email. However, while that may work for "traditional financial institutions," some of our small dealers do not have websites and email transmittals by them may be costly, cumbersome and speculative at best. Of course, email transmittal assumes that the customer has the capability to receive them that may not always be the case. In addition, the reference to "section 504" created a significant degree of uncertainty as that section, in part, gave the Bureau of Consumer Financial Protection and the Federal Trade Commission broad authority to issue regulations on an on-going basis, thereby, for purposes of this bill, leaving in doubt what "other form permitted by regulations" might take. Given this, the Association's position was that subparagraph (3) of the S. 635 not be included in the final version of the bill.

### **Auction Sales**

This issue has not resurfaced for some time now. We will continue to monitor any possible developments but that plus the fact that Senator Pryor (D-AK), the chief proponent of the issue, was not reelected diminishes, we believe, greatly the likelihood of any future action.

### **MAP-21 Reauthorization**

Congress is gearing up for reauthorization. MAP-21 expires May 31. While the FY15 Omnibus Appropriations Act funded the program until September 30, 2015, the program structure needs to be addressed in some way by the end of May. While the organizational requirements of the new Congress, the change in majority in the Senate, and committee and subcommittee leadership changes in both Houses have slowed the process a bit, the House Transportation and Infrastructure Committee staffs have been meeting to review current law and address changes that Members want and that the current program might dictate. In the Senate, the Democrats are advocating for many of the issues/approaches included in former Chairman Boxer's bill of last Congress. The Republican staff has been quietly canvassing their Members for issues.

On January 14, Senator Boxer released the statement below urging Republican leadership to immediately turn to a long-term surface transportation bill that will support millions of jobs instead of the Keystone tar sands pipeline bill.

Senator Boxer said: "There is a growing chorus from states in recent months that the Highway Trust Fund is in serious trouble and much-needed transportation projects are in peril. Arkansas and Tennessee have already delayed or canceled construction projects due to the uncertainty in federal transportation funding, and other states are considering similar action as the construction season fast approaches. I again call on Republican leadership to immediately drop the Keystone tar sands pipeline bill, which would create only 35 permanent jobs, and instead turn to a long-term transportation bill that will support millions of jobs and restore certainty for state and local

governments and the construction industry."

The Senate Committee on Environment and Public Works held a hearing on January 28 to examine the need for Federal transportation infrastructure investments and the importance of passing a long-term MAP-21 reauthorization to support the Nation's global economic competitiveness. The hearing also addressed the threat that businesses, states, and workers face due to the impending insolvency of the Highway Trust Fund. Witnesses were Anthony Foxx, Secretary, United States Department of Transportation; Robert Bentley, Governor, State of Alabama; Daniel Malloy, Governor, State of Connecticut; Peter Shumlin, Governor, State of Vermont; and, Dennis Daugaard, Governor, State of South Dakota.

The Senate Committee on Commerce, Science, and Transportation held a hearing, "Freight Rail Transportation: Enhancing Safety, Efficiency, and Commerce," on January 28. The hearing focused on challenges facing our nation's freight rail network created by higher demand, rules and regulations, and infrastructure needs.

The Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Senate Commerce Committee held a hearing on January 29, entitled, "Improving the Performance of our Transportation Networks: Stakeholder Perspectives." The hearing focused on the importance of a reliable and efficient surface transportation network; challenges relating to efficiency, safety, and overall performance; and the role of federal agencies. Witnesses were Jim Mullen, Executive Vice President and General Counsel, Werner Enterprises; Lance Fritz, President and Chief Operating Officer, Union Pacific Railroad; Douglas Means, Executive Vice President and Chief Supply Chain Officer, Cabela's; and, Ed Rendell, Co-Chair, Building America's Future.

## **Bill Tracking**

The following are bills that have been introduced to date in the new Congress and which MAY be of interest. We say "MAY" because to date not much is known about the subject content of most of the bills given that the information base has not "caught up" with the sheer number of bills introduced. That will happen soon and more analysis will follow.

### **H.R.171, To repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act**

Sponsor: Rep Smith, Adrian [NE-3] (introduced 1/6/2015) Cosponsors (None)

Related Bills: S.89

Latest Major Action: 1/26/2015 Referred to the Subcommittee on Commodity Exchanges, Energy, and Credit.

### **S.89, Financial Takeover Repeal Act of 2015**

Sponsor: Sen Vitter, David [LA] (introduced 1/7/2015) Cosponsors (None)

Related Bills: H.R.171

Latest Major Action: 1/7/2015 Referred to the Committee on Finance.

### **H.R.414, Burdensome Data Collection Relief Act**

Sponsor: Rep Huizenga, Bill [MI-2] (introduced 1/20/2015) Cosponsors (16)

Latest Major Action: 1/20/2015 Referred to the House Committee on Financial Services.

