

Iowa Automobile Dealers Association

ACTION UPDATE

IADA Calendar

June 7–8, 2016

ATD Washington Fly-In
Washington, DC

August 11–12, 2016

IADA Summer Board Meeting
Des Moines

September 20-21, 2016

NADA Washington Conference
Washington D.C.

Iowa Automobile Dealers Association

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The *Action Update* newsletter is published every other week by the Iowa Automobile Dealers Association. To add people to our distribution list or share suggestions for future articles, contact Brittany Bungert at 515.440.7620.



Phil Chapman stands with friends and colleagues at his retirement party. From left: Larry Carroll, Mike Graham, Phil Chapman, Steve Wade, Reed Gass, Al Voorhees, Pat Clemons, Marissa Hager, and Jim Jensen.

Steve Wade to Take Over as Senior Vice President of Hawkeye Financial Services; Phil Chapman Retiring

A transition is taking place at IADA preferred provider Hawkeye Financial Services, with Phil Chapman, who led the company for 11 years, retiring at the end of the month and Steve Wade, who has been a regional sales manager for the past nine years, becoming senior vice president.

With over 30 years in sales experience, 20 of those in dealerships, Wade is excited to take on this new position. "I'm really looking forward to the challenge of combining my sales and F&I experience with what I've learned at Hawkeye over the past 9 years," Wade said. "I want to continue to create the best dealer experience possible."

In the future, Wade hopes to see increases in Hawkeye Financial Services' dealer base and also wants to further develop the products and services that are offered to dealers and their customers. Though he hopes to see many positive advancements, Wade insists there will be certain aspects that remain the same. "What won't change is Hawkeye's integrity and the

commitment to always do what is in the dealer's best interest," Wade said.

Chapman started in the financial services arena in 1972. Specializing in reinsurance, his work took him from coast to coast before he settled in at Hawkeye Financial Services in 2005. "I knew about Hawkeye in 1978," Chapman said. "I didn't work for them, but I was aware of them."

Though there were many things he enjoyed over the years, working with dealers and getting to know their businesses stood out to him most. "I tried to make them as much money as I could," Chapman said with a smile.

Chapman would like to thank everyone he has worked with since starting at Hawkeye Financial Services, and would also like to wish Wade luck.

Please join us in congratulating Chapman on his retirement and welcoming Wade to his new role.

U.S. Department of Labor Issues New Overtime Compensation Rules

The U.S. Department of Labor issued rules last week that increase the minimum salary/compensation levels of executive, administrative, professional, and computer employees in order to be exempt from overtime. The new rules are effective December 1, 2016 and in summary:

1. Hike the salary threshold for executive, administrative, professional and computer employees from \$23,660 to \$47,476 annually.
2. Hike the "highly compensated employee" minimum for exemption from \$100,000 to \$134,004 annually.
3. Permits employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new salary thresholds.
4. Provides for an automatic cost-of-living escalator for updating the minimum thresholds every three years.

The new rules do not change the "duties tests" that must be met in order for executive, administrative, professional, and computer employees to be exempt. Likewise, it does not alter the long-standing salesmen, partsmen, and mechanics overtime exemption for dealership employees who are primarily engaged in selling or servicing automobiles, trucks, or farm implements.

For an overview of how the new "white collar" rules will impact dealerships and their employees, see [NADA's FAQ](#). [NADA's Dealer Guide to the Fair Labor Standards and Equal Pay Acts](#) will be updated and revised to reflect the new threshold mandates before the December 1, 2016 effective date.

Contact IADA President [Bruce Anderson](#) with questions about the new overtime rules.

SF 2228: Dealer Bonds

Do not overlook the dealer bond provisions of the newly enacted IADA-endorsed legislation. While the documentary fee and electronic registration provisions of [SF 2228](#) are getting most of the attention, there is an important change in the law affecting dealer bonds. There was a discussion of establishing a tiered bond system or a centralized state-administered pool for consumer claims. Both of those proposals would have resulted in franchised dealers paying significantly more for their dealer bond. Here is what you need to know about changes to the dealer bond requirement:

1. The only change to the law is an increase of the face amount of the bond from \$50,000 to \$75,000.
2. The effective date of the new law is July 1, 2016, but the increased bond must only be filed "before the issuance of a motor vehicle dealer's license." That means that new dealer licenses for an entirely new dealership opening on or after July 1, 2016 will require a \$75,000 bond. All existing dealer licenses will expire December 31, 2016 and a \$75,000 bond must be filed before that date.
3. Dealers who acquire their bonds through the IADA program with Merchants Bonding Company will benefit from a "blanket" filing that will update and increase all dealers in the program well in advance of the deadline.

Dealers with questions or concerns about dealer bonds may direct questions to bonds@iada.com.

Dealer News

Edwards Auto Group Employees Honored by Guard and Reserve Group

Congratulations to **Edwards Auto Group** (Council Bluffs) General Manager **Brett Edwards** and New Car Sales Manager **John Blankenship** on receiving the Patriotic Award from the Iowa Employer Support of the Guard and Reserve.

Edwards and Blankenship were nominated by Edwards Auto employee **Dirk Arneson**, a member of the Nebraska Army National Guard 165th Quartermaster Division. The award recognizes outstanding employer support of military employment and service.

McMullen Ford Receives 2015 Partners in Quality Award

Congratulations to **McMullen Ford** (Council Bluffs) on receiving Ford's 2015 Partners In Quality Award. As Ford's most prestigious award, the Partners In Quality was made to recognize dealers who achieve the highest levels of customer satisfaction and loyalty.

Stew Hansen Dodge Chrysler Jeep RAM Named to Walter P. Chrysler Club

Congratulations to **Stew Hansen Dodge Chrysler Jeep RAM** (Urbandale) on being named to the Walter P. Chrysler Club. Dealerships are invited based on overall new vehicle sales and Mopar parts performance.

If you have dealership news to share, let Lauren Iverson know. [Send her an email](#) or call 515.440.7611.

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New Vs. Used Vehicles: What if the Same Car is Both?

Some of your new cars may be used and some of your used cars are probably new. Also, it's pretty likely you have some cars in inventory that are both new *and* used.

There are at least four statutes—two federal and two Iowa-specific—where the difference between a new car and a used car is critical to legal and regulatory compliance. Some of the definitions overlap and the result is that most franchised new motor vehicle dealers have vehicles in stock that meet the definitions of both “used” and “new.”

Monroney sticker requirements come from the [Automobile Information Disclosure Act of 1958](#), which is named after the legislation's sponsor Senator Almer Stilwell “Mike” Monroney of Oklahoma. This is the law that requires all new automobiles display a window sticker containing consumer information ranging from price and options to fuel efficiency and safety ratings. That law defines “new automobile” as “an automobile the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchase.” For Monroney sticker purposes, until it has been sold at retail, a vehicle must display the window sticker.

A separate federal law requires that a “Used Car Buyer's Guide” be displayed before offering a used vehicle for sale. For purposes of that law, there is a definition of used vehicle that does not neatly align with the Monroney definition of new vehicle. For purposes of the FTC's Used Car Rule, previously titled or not, any vehicle driven for purposes other than moving or test driving is considered a used vehicle, including light-duty vans, light-duty trucks, demonstrators, and program cars that meet the following specifications:

- A. A gross vehicle weight rating (GVWR) of less than 8,500 pounds;
- B. A curb weight of less than 6,000 pounds; and
- C. A frontal area of less than 46 square feet

That means that a single vehicle can be considered both new (for Monroney sticker purposes) and used (for FTC Used Car Buyer's Guide purposes). Iowa law only makes it more complicated when it comes to the definitions establishing who can and cannot sell new motor vehicles and what disclosures must be made to consumers relating to prior use of a used vehicle (even if it meets one of the definitions of “new.”) The FTC publishes [“A Dealer's Guide to the Used Car Rule”](#), which is essential reading for whoever is responsible for window sticker compliance in your dealership.

Iowa Code 322 prohibits anyone from selling a new motor vehicle unless licensed and franchised to sell motor vehicles of that line-make. Any licensed Iowa dealer may sell used or second-hand motor vehicles regardless of the line make. The Iowa statutory definition of “used motor vehicle” or “second-hand motor vehicle” is “any motor vehicle of a type subject to registration under the laws of this state which has been sold ‘at retail’ as defined in this chapter and previously registered in this or any other state.” That means that any motor vehicle that has not been sold at retail and been registered in Iowa or another state is considered new and may only be sold by a franchised dealer of that line make (even if it is a used car for purposes of displaying the FTC Used Car Buyer's Guide).

Just because the state of Iowa says it's new and can only be sold by a new motor vehicle dealer doesn't mean that the Iowa Department of Justice thinks it is okay to call it a new car. Iowa's Consumer Fraud statute defines “deception” as “an act or practice that is likely to mislead a substantial number of consumers as to a material fact or facts.” The Iowa Consumer Protection Division of the Iowa Attorney General's office considers “prior use” to be a material fact, meaning that calling a vehicle new when it meets the “Used Car Buyer's Guide” definition of used (driven for purposes other than moving or test driving) is actionable as an unfair, deceptive trade practice.

CPR Training Units Available for Donation Through NADCF Program

IADA members can donate CPR training units to qualifying community organizations through a National Automobile Dealers Charitable Foundation (NADCF) program. Qualifying organizations include hospitals, fire departments, YMCAs, and schools.

Up to 12 CPR training units can be donated by Iowa dealers each year and any requests exceeding that amount are placed on a waiting list for the next year.

Organizations can select which type of unit they would like to receive from a list of eight units, including adult, child, and baby models. The application can be downloaded from the [NADA website](#) and to IADA's [Mary Cason](#).

Dealerships are encouraged to reach out to organizations that may be in need of training units. This is an opportunity for dealerships to easily—and at no cost—make a significant impact in their communities.

For more information, contact [Mary Cason](#) at 515.440.7625.

Regulatory Refresh: Hail Damage

With the frequent possibility of spring storms, it is important to make sure your dealership staff knows how to disclose hail damage on vehicles. It is always a good idea to disclose hail damage, regardless of its amount or whether it has been fixed.

To assure customers are aware of any previous damages, IADA suggests writing on the purchase agreement “Customer acknowledges hail damage,” and have the customer initial it. However, if the repair cost exceeds 4% of the dealer's adjusted cost on a new vehicle, or 50% of the fair market value on any vehicle, additional disclosures are required.

For more information about damage disclosures, visit the [IADA Legal Library](#).

Iowa Automobile Dealers Foundation for Education Awards Scholarships

The Iowa Automobile Dealers Foundation for Education has awarded 15 \$2,000 scholarships to college-bound students. The recipients, who are seeking education to begin careers in the automotive industry, are:

- M. O. Kahn Scholarship recipient **Alex Bare** of Newton, recommended by **Noble All American** (Newton). Bare is enrolled in the Chrysler CAP program at Des Moines Area Community College (DMACC).
- Edmund S. Elbert Memorial Scholarship recipient **David Bartelt** of Titonka, recommended by **Bob Boland Ford** (Bancroft). Bartelt plans to enroll in an auto tech program after his high school graduation.
- **Nick Burger** of New Vienna, recommended by **Victory Ford** (Dyersville). Burger plans to enroll in the auto tech program at Northeast Iowa Community College.
- L. R. & Iven Weber Memorial Scholarship recipient **William Buse** of Dubuque, recommended by **Richardson Motors** (Dubuque). Buse plans to enroll in the auto tech program at Kirkwood Community College.
- **Nickolis Carman** of Council Bluffs. Carman is enrolled in the GM ASEP program at Southeast Community College in Milford, NE.
- Pat & Carol Clemons Scholarship recipient **Brandon Dean** of Marshalltown, recommended by **Housby Mack** (Des Moines). Dean is enrolled in the diesel tech program at DMACC.
- Michael T. Clemons Scholarship recipient **Alex Fangmann** of Manchester, recommended by **Bob Stephen Motors** (Manchester). Fangmann plans to enroll in the Ford ASSET program at DMACC.
- **Kelly Grossman** of Maxwell, recommended by **Willis Auto Campus** (Clive). Grossman is enrolled in the accounting program at Iowa State University.
- Stan & Marleen Moffitt Scholarship recipient **Cole Jensen** of West Des Moines. Jensen plans to enroll in the business program at Luther College.
- **Matthew Maxfield** of Pleasantville, recommended by **Dewey Dodge** (Ankeny). Maxfield is enrolled in the Chrysler CAP program at DMACC.
- **Riley Pegorick** of Le Claire. Pegorick is enrolled in the collision repair program at Scott Community College.
- **Colton Raw** of Garner, recommended by **Ollenburg Motors** (Garner). Raw plans to enroll in the auto tech program at Western Iowa Tech Community College.
- **Rachael Schueller** of Durango, recommended by **Riley Mazda Subaru Mitsubishi** (Dubuque). Schueller, who also received a scholarship from the Foundation in 2015, is enrolled in the accounting program at Loras College.
- **Taylor Voorhees** of Clive, recommended by **Willis Auto Campus** (Clive). Voorhees, who also received a scholarship from the Foundation in 2015, is enrolled in the College of Business at Iowa State University.
- George White Memorial Scholarship recipient **Walter Woolfolk** of Osage, recommended by **Hosmer Toyota** (Mason City). Woolfolk is enrolled in the auto tech program at North Iowa Area Community College.

OSHA Issues New Injury and Illness Electronic Reporting Mandate

OSHA has issued a new mandate that will require certain dealerships to begin submitting workplace injury and illness records to the Occupational Safety and Health Administration (OSHA). Read on for more information on the new mandate from Wes Lutz, chairman of NADA Regulatory Affairs.

"All dealerships must maintain reasonable procedures by which employees can report work related injuries and illnesses promptly and accurately. The new reporting rule builds on existing mandates requiring dealerships with 10 or more employees to accurately record and post employee workplace injury and illness using OSHA Forms 300, 300A, and 301 (or the state equivalent). Today and in the future, these forms must be made available to OSHA and state labor inspectors upon request.

"The rule imposes different reporting requirements on light-duty (car) and commercial truck dealerships.

- Car dealerships with fewer than 250 employees at a single "establishment" are not required to submit forms to OSHA.
- Commercial truck dealerships with 20 to 249 employees at a single "establishment" must electronically submit to OSHA their annual summary of employee workplace injuries and illnesses (Form 300A or equivalent).
- Car and commercial truck dealerships with 250 or more employees at a single "establishment" (which is rare) must electronically submit to OSHA Form 300A in 2017 and all of their injury and illness recordkeeping forms (Forms 300, 300A and 301 or equivalent) in subsequent years.

"Forms for 2016 must be submitted by July 1, 2017, forms for 2017 by July 1, 2018, and forms for 2018 and later by March 2 of the following year. OSHA has yet to specify how electronic submissions must be made, but has stated that they will be made publicly available on its website and will be used to help target enforcement activities.

"NADA suggests that dealerships use a new [OSHA poster](#) to inform employees of their right to report work related injuries and illnesses. See [NADA's FAQ](#) and [OSHA's Injury and Illness Website](#) for more information."