

Iowa Automobile Dealers Association ACTION UPDATE

IADA Calendar

March 22–25, 2018

NADA Show

Las Vegas

April 19–20, 2018

IADA Board Meeting

West Des Moines

Iowa Automobile Dealers Association

Chairman

Jim O'Halloran

O'Halloran International Inc.

Vice Chairman

Jeff Haun

Riley Mazda Subaru Mitsubishi

President

Bruce Anderson

Secretary

Mike Clemons

Clemons Chevrolet

Treasurer

Jeff Finch

Wes Finch Auto Plaza

Immediate Past Chairman

Brad Deery

Deery Brothers

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.

Incorrect Payoff Amount Can Cost Dealers

IADA's copyrighted and state-of-the-art Motor Vehicle Purchase Agreement (CPO5 Revised July 2016) contains a key provision that protects dealers against getting caught with an unreleased lien if the lender provides you an incorrect payoff amount on a trade-in. The key word in the previous sentence is "lender." In order to secure the contractual protection that the payoff is properly calculated, the dealer may only safely rely on a payoff calculation provided by the lender to the dealer.

There can be expensive consequences to cutting corners on that requirement. Many customers will have the payoff amount with them or be able to produce it with a phone call to the lender, a recent billing statement or even a smartphone app. While a number secured in any of those ways might be a good place to start a conversation about a motor vehicle purchase, the sure-fire way to be certain that you have a valid and enforceable payoff amount is to have the lender provide it directly to you.

A recent Iowa District Court case involving a transaction where the Motor Vehicle Purchase Agreement recited an incorrect and insufficient amount as the lien payoff on the trade-in vehicle resulted in a judgment against the dealer, giving the customer a windfall and leaving the dealer with a trade-in vehicle with an unsatisfied lien. Arguments that the customer was unjustifiably enriched, that the incorrect payoff amount was a mutual mistake, and that the customer should have known at least the approximate amount of his payoff were rejected by the court. The court's analysis boiled down to two points: the incorrect number the parties included in the agreement did not match the payoff provided by the lender (so the section of the purchase agreement referred to above did not apply) and the dealer was the more sophisticated party in the transaction (which is almost always going to be the case).

IADA's best practice guidance is to always secure written payoff directions directly from the customer's lienholder.

Retail Sale Determines Whether Non-Franchise Dealer Can Sell Vehicle

Iowa's motor vehicle code contains a provision that prohibits the sale of "new motor vehicles" by anyone other than a franchised and licensed motor vehicle dealer of the vehicle's line make. That is a three-prong requirement. In order to sell a new motor vehicle at retail, the seller must be 1) licensed as an automobile dealer by the state of Iowa; 2) franchised to sell the line make of the motor vehicle offered; and 3) licensed by the state of Iowa as a franchised dealer of the line make of the motor vehicle offered.

The term "new motor vehicle" is a defined term for the purposes of this statute and does not correlate to the way that phrase is used in other situations such as laws requiring the display of a Monroney sticker or establishing thresholds for damage disclosures. For purposes of determining whether a non-franchised dealer is prohibited from selling

a motor vehicle because it is "new" the controlling issue is whether it has been sold at retail. Such considerations as the number of miles it has been driven and whether its ownership documentation is an MSO as opposed to a state-issued title are not controlling.

For example, a motor vehicle that is titled on a state-issued title in the name of a dealer or other entity that has always been held for resale is considered "new" for the purposes of this statute and could only be sold by a franchised dealer of that line make (even though it may have been used for purposes other than demonstration and test drives which would require the display of a Used Car Buyer's Guide).

[See the statute: Iowa Code §322.3\(1\).](#)

Regulatory Refresh: Record Retention, Destruction

Establishing and following a record retention and destruction policy is vital for any dealership. Keeping records longer than required creates significant legal and security risks, and having the policy is not enough. It must be followed carefully, with documents destroyed once they are no longer required to be retained. IADA recommends regularly shredding outdated records as a best practice.

Consult our record retention guide on [page 5](#) to see retention requirements for many dealership documents and files.

Used Car Buyers Guides Terms Defined

The deadline for implementation of the revised Used Car Buyers Guide has passed and it is a federal violation to use the old form. The revised form introduces concepts and terms not used in the old form or uses them differently. The following explains those terms and offers clarity on how dealers must use them. (For detailed information about the revised Used Car Buyers Guide, read [“Dealerships Must Begin Using Revised Used Car Buyers Guides by January 27”](#) from the January 10, 2018 *Action Update*.)

Manufacturer Warranty. This is the original warranty issued, underwritten and guaranteed by the automobile manufacturer. Disclosure of remaining unexpired manufacturer warranty is not mandatory on the Used Car Buyers Guide. If you elect to disclose unexpired manufacturer warranties, you must monitor your posted guides to be certain that they are accurate and that the warranty has not expired while the vehicle has been in inventory.

Manufacturer’s Used Vehicle Warranty. This is the warranty issued, underwritten and guaranteed by the manufacturer, typically as part of its certified pre-owned sales program. A separate written warranty document containing the terms and conditions of the manufacturer’s used vehicle warranty must be provided to the customer.

Other Used Vehicle Warranty. This is a warranty issued, underwritten and guaranteed by an entity other than the manufacturer or the dealer which is included as part of the sale in the price of the vehicle. A separate written warranty document containing the terms and conditions of the used vehicle warranty must be provided to the customer.

Service Contract. This is an optional agreement providing specific repair coverage at an extra cost to the consumer. A separate written service contract document containing the terms and conditions of the service contract, including details about coverage, deductible, price and exclusions must be provided to the customer.

Dealer Warranty. This is a warranty issued, underwritten, and guaranteed by the dealer which is included as part of the sale in the price of the vehicle. A separate written warranty document containing the terms and conditions of the dealer warranty must be provided to the customer. The recitations and disclosures contained on the Used Car Buyers Guide are not sufficient to satisfy the separate document requirement under the Magnuson Moss Warranty Act.

IADA Printing & Promotions offers compliant Used Car Buyers Guides and limited warranty forms and can assist with any questions. They can be reached at promoprint@iada.com or 800.869.1966. IADA President Bruce Anderson may also be contacted with questions at banderson@iada.com or 515.440.7630.

Dealer News



Bill Colwell Ford (Hudson) donates \$6,000 to Hudson Athletic Booster Club. Pictured, from left: Bill Colwell Ford Owner **Bill Colwell**, Booster Club member Colby Entriiken, Hudson Community School District Superintendent Dr. Anthony Voss, Bill Colwell Ford General Manager **Blake Colwell**, Hudson Community Schools 7-12 Activities Director Kevin Wurzer, and Booster Club member Shawn Kolterman.

Bill Colwell Ford Donates \$6,000 to Hudson Athletic Booster Club

Bill Colwell Ford (Hudson) donated \$6,000 to the Hudson Athletic Booster Club as the result of its ninth annual Drive 4 Ur School event held in September 2017. The dealership has helped raise more than \$56,000 for the booster club.

If you have dealership news to share, let Brittany Bungert know. [Send her an email](#) or call 515.440.7620.

Notes from the Statehouse: The First Funnel

The first funnel, or deadline for bills to move out of committee in their respective chambers, has passed, pulling some legislative proposals off the table for the 2018 session. One caveat: Legislators do have ways of reviving legislation that doesn’t make it through the funnel, so we may not have seen the end of every proposal.

Notable dealer issues that did not survive the funnel include:

- [Motor Home Consignment Sales.](#)
- [Sunday Sales.](#) (Despite [a legislator calling the Sunday sales ban “a little archaic”](#) this bill did not pass out of committee before the deadline.)
- [One-License Plate.](#)

[Warranty reimbursement](#), a legislative proposal IADA strongly supports, did survive the first funnel.

Last Call for Scholarships *Applications Due March 1*

Know anybody interested in pursuing a career in the automotive industry?

The Iowa Automobile Dealers Foundation for Education will be awarding several \$2,000 scholarships to students interested in pursuing automotive-related studies. Related studies include technician training, body shop/collision repair, diesel, new vehicle sales, parts sales, accounting, and business administration. Dealerships should encourage students with these interests to apply.

Students have until 5 p.m. on March 1, 2018 to submit their [application materials](#) to IADA headquarters.

Application materials must include a letter written by the applicant detailing their interest and goals in the automotive industry, a letter of recommendation by a high school or college teacher, counselor or co-worker, an unofficial transcript of the applicant's grades, and a copy of the Expected Family Contribution of the applicant as determined by the FAFSA. In addition, it is recommended that students submit a letter of support from an IADA member dealership, but this is not required. Please spread the word and help encourage the future members of the automotive industry!

[Download the scholarship application and guidelines.](#)

Meet IADA's New Communications Intern

Drake University student Ashley Flaws, a Webster City native, has joined the IADA team as a communications intern for the spring semester.

Flaws, who is studying magazine journalism and English, will be working on the *Action Update* newsletter, *Iowa Auto Dealer* magazine, and other member communications tasks.

"I was looking for an internship and I wanted to have a wide variety of experiences and build my skills," Flaws said. IADA's small staff organization, where she will have the opportunity to work on every facet of association communications, was a good fit.

Currently a sophomore, Flaws hopes to write for magazines after graduation and eventually become an editor. A life-long Iowan, she plans to stay in Iowa, and maybe someday write a book.

When she's not studying or working for Iowa's car dealers, Flaws likes to read, watch Netflix, and spend time with her friends and family. Her family includes her parents and a younger sister who live in Webster City, and a twin sister who is studying nursing at Grand View University in Des Moines.

Flaws can be reached at aflaws@iada.com.

Technicians Working on Motor Vehicle Air Conditioners Must Be Trained, Certified

EPA rules require that technicians repairing or servicing motor vehicle air conditioners be trained and certified using an EPA-approved program.

[See a list of EPA-approved programs.](#)

[Learn more about the EPA's refrigerant sales restrictions.](#)

Download NADA's [Dealer Guide to the EPA Mobile Air Conditioning Coolant Recycling Regulation](#).

How Does Your Store Measure Up? *NADA Workforce Study Can Help You Find Out*

BY NADA CHAIRMAN MARK SCARPELLI

We are only as strong as our weakest link. With that said, the 2018 NADA Dealership Workforce Study is now open for enrollment and I encourage all dealers to participate and use this tool to your advantage. The nation's franchised auto dealers have been going strong for a century. But to meet the demands of the future, we must take a hard look at our most valuable resource: our employees.

I'm happy to report that dealer participation was incredible last year. The 2017 workforce study analyzed more than 451,000 payroll records from 2,350 new-car and -truck dealerships that participated. Let's triple our participation this year.

NADA's workforce study objectively measures the strengths of our businesses and helps us better compete in today's market. The study results will help you make informed decisions on pay plans, benefits and work schedules; take steps to reduce turnover and retain the best employees; and pinpoint demographic issues that your dealership may face.

Last year we identified important hallmarks of today's modern dealership. On average, dealership employees across the nation are earning nearly 24 percent more

than the median weekly earnings of \$832 for the U.S. private-sector workforce. We also found an interesting trend in new hires: Millennials made up 61 percent of all new dealership hires, and the rate is increasing. These are undoubtedly successful markers that we can all be proud of. However, we can also target areas of improvement such as employee turnover and inclusiveness in our individual operations.

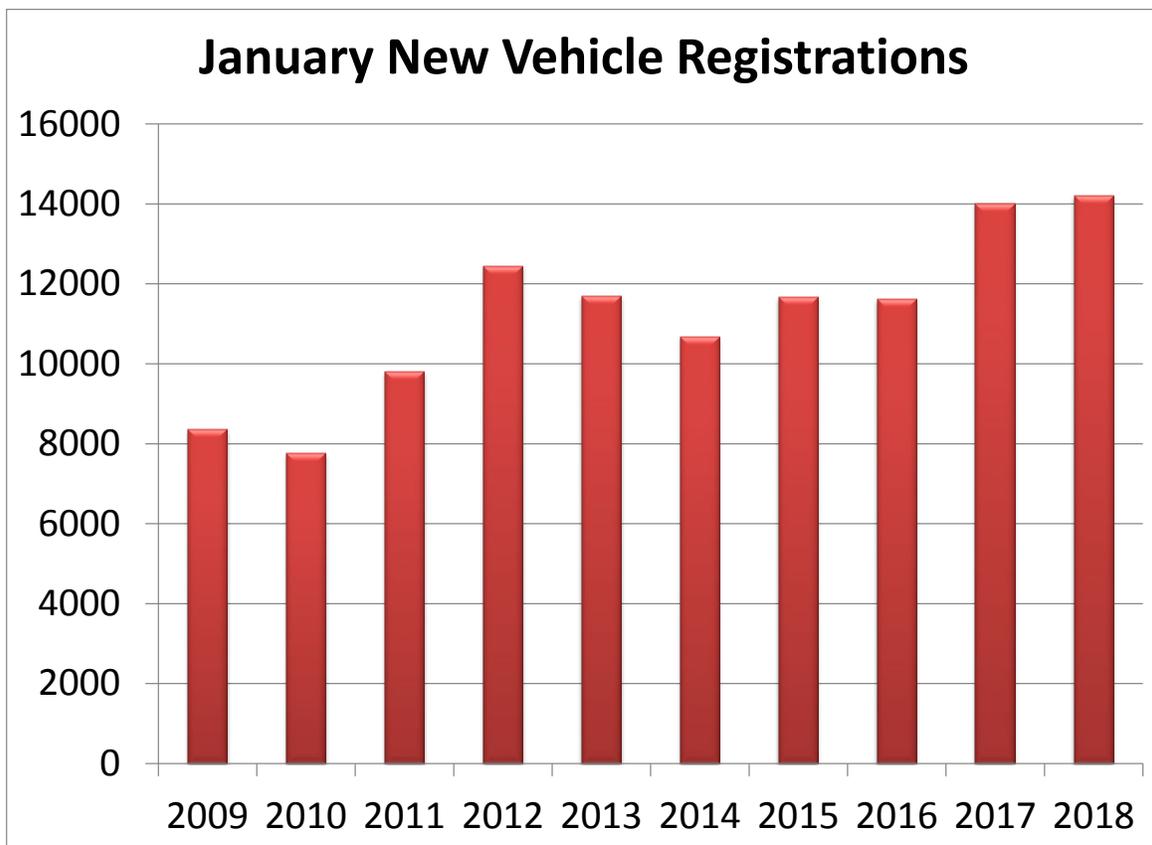
The best part of the Workforce Study is that participation for new-car and -truck dealers is free. [Enroll today](#); the study closes on April 30, 2018. NADA will provide you a complimentary custom report that compares your dealership to aggregated data from your peers across the nation and region—even down to dealerships selling your brand in your state or region.

Dealers today are facing myriad new issues including cybersecurity threats, increasingly complex vehicles and evolving customer expectations. The strength and competitiveness of every dealer rests in the quality of their team. Let's make sure that our links are stronger than ever.

Mark Scarpelli, NADA chairman, is a Chevrolet and Kia dealer in Antioch, Ill.

Celebrate Your Dealership's Anniversary

IADA will recognize dealerships celebrating their 25, 50, 75, and 100 year anniversaries during the Spring Board & Annual Meeting held April 19 in West Des Moines. Send your anniversary information to [Mary Cason](#) by April 2.



January New Vehicle Registrations Up 1.4% from 2017

Iowans registered 14,202 new vehicles in January, up 1.4% from 2017, making it the third-highest month for new vehicle registrations in Iowa according to IADA's records. The start to 2018 also set a record for most new vehicle registrations in the month of January, beating the previous record of 14,011 set in January 2017.

IADA obtains new vehicle registration reports from Reg-Trak Inc. For more information on how you can order your own customized reports, contact [Scott Quimby](mailto:Scott.Quimby@regtrak.com) at 877.335.2525.

Biggest Registration Increases January 2017–January 2018

Make	January 2017	January 2018	Increase	Percent Increase
Chevrolet	2,998	3,354	356	11.9%
GMC	606	811	205	33.8%
Buick	265	386	121	45.7%
Kia	356	423	67	18.8%
Honda	797	838	41	5.1%
Volkswagen	157	191	34	21.7%
Mitsubishi	42	72	30	71.4%
Volvo	32	59	27	84.4%
Mazda	122	134	12	9.8%
Mercedes-Benz	77	88	11	14.3%

Biggest Registration Decreases January 2017–January 2018

Make	January 2017	January 2018	Decrease	Percent Decrease
Toyota	1,443	1,226	-217	-15.0%
Jeep	851	708	-133	-15.6%
Ford	2,634	2,527	-107	-4.1%
Chrysler	266	193	-73	-27.4%
Dodge	372	314	-58	-15.6%
Lexus	169	128	-41	-24.3%
Subaru	428	399	-29	-6.8%
Ram	691	672	-19	-2.7%
Nissan	785	768	-17	-2.2%
Infiniti	63	50	-13	-20.6%

Source: Reg-Trak Inc.

Accounting

Audit Reports	Permanently
Accounts Receivable or Payable Ledger	8 years
Bank Statements and Reconciliations	5 years
<i>Canceled Checks</i>	
Payroll and General	5 years
For Purchase of Assets	5 years after asset disposition
Capital Stock Book	Permanently
Cash Disbursement Journal	8 years
Cash Received Journal	8 years
Expense Reports	6 years
Expense Ledger	8 years
Financial Statements	8 years, retain permanently if no formal audit reports.
General Ledger and Journal	Permanently
Interdepartmental Sales Journal	8 years
Inventory Records (annual)	8 years
New Car Sales Journal	8 years
Notes Receivable Ledger	8 years
Parts, Accessories, and Service Sales Journal	8 years
<i>Payroll</i>	
Earnings Records	5 years
Journal	5 years
Time Cards	3 years
<i>Petty Cash</i>	
Vouchers	3 years
Summary Envelope	3 years
Prepaid and Accrued Expenses Journal	3 years
Subsidiary Ledger	8 years
Trial Balances	8 years
Vouchers: Vendors, Employees	8 years

Corporate

Articles, Bylaws, Minutes, Other Corporate Records	Permanently
--	-------------

Correspondence

General	Permanently
Legal and Tax	10 years

*Each item in the deal jacket has its own retention requirement. Unless you want to strip the file, keep the car deal for 10 years, or, in the case of contracts performed over time, for 10 years past the contract's expiration.

**The Used Car Buyers' Guide is not required to be kept, however, if you don't keep a signed copy it will be difficult to prove that your customer received one.

Operations

Accident Reports	6 years
Bills of Lading	10 years
Buyer's Guide—Used Car**	No requirement*
Car Invoices*	6 years*
Car Purchase Orders*	10 years
<i>Credit Applications</i>	
Denied*	7 years*
Approved*	7 years*
Credit Card Slips	1 year
Credit Denial Notices*	5 years*
Criminal Background Checks	1 year
Customer Files*	10 years*
Damage Disclosure Statements*	5 years*
<i>Employment Applications</i>	
Terminated and Not Hired	3 years
Hired	3 years after termination
Insurance Policies—Expired	4 years
Internal Repair Orders*	3 years
Junking Certificate	3 years
Odometer Statements*	5 years
OSHA Records	6 years
Personnel Files	6 years after termination
Purchase Orders	6 years
Repair Estimates	9 months
Repair Order Check Sheet	2 years
Repair Order	6 years
Retail Installment Contract*	10 years
Sales Invoices	6 years
Service Contracts/Extended Warranties*	10 years after expiration
Shipping, Receiving Reports	6 years
Underground Storage Tanks—Testing/DNR Correspondence	Permanently
Uniform Hazardous Waste Manifests	3 years
Vendor Invoices	6 years

Taxes

Form 8300	5 years
<i>Income Tax Returns</i>	
US and State	Permanently
Related Work Papers	5 years
IRS Audit Results	Permanently
Unemployment Tax Returns: US and State/Related Work Papers	5 years
Withholding Tax Returns: US and State/Related Work Papers	5 years
Withholding Tax Statements	5 years