



September 15, 2021

## ERT Update: Learn the System While Inventory is Low

Adoption of electronic registration and titling (ERT) continues to grow steadily, with 90 dealers submitting paperwork to counties electronically in August. Just under 30 additional dealerships have been trained on the system but did not submit a transaction last month.

The DOT and eDealer Services have continued to make improvements to ERT. Dealerships now have the ability to:

- Integrate eTitle with their DMS, eliminating duplicate data entry and increasing efficiency.
- Choose whether your ERT process starts with the F&I department or title clerks.

Future improvements include eliminating the separate ERT authorization with the roll out of a new title application in January 2022 and the long-awaited launch of used car registration and titling, which is tentatively scheduled for May 2022.

IADA Director of Dealer Services Jessi White is scheduling training for dealerships that would like to on-board with the eTitle system this fall and winter.

"The best time to learn the system is now, even though inventory is low," White said. "It allows everyone in the dealership to learn the system and figure out system processes and make changes before used vehicles are in the mix."

To learn more about ERT or to start the on-boarding process, email [jwhite@iada.com](mailto:jwhite@iada.com) or call 515.440.7611.

## Restore Non-Compliant Emissions Systems on Trade Vehicles Before Selling

Stopping aftermarket defeat devices installed in vehicles engines to render emissions controls inoperative has been established as a top priority of the US Environmental Protection Agency, and Iowa is squarely in the agency's sights. In the past year alone three separate investigations involving four Iowa businesses, hundreds of vehicles, and millions of dollars in civil penalties have been conducted by the EPA in Iowa.

Federal law prohibits tampering with a motor vehicle's emissions control device by removing it or making it inoperable, including selling or installing a defeat device. While Iowa does not have a statute or regulation that specifically prohibits selling a motor vehicle with a missing or disabled exhaust system, it does have a consumer protection statute that requires the disclosure of any "material fact."

Here's what you need to know when assessing a trade with a non-compliant emissions system:

If an emissions defeat device has been installed, the only legal option is to restore the vehicle's emissions system to factory specifications. It cannot be sold with a defeat device installed because federal law prohibits selling defeat devices. There is no exemption or waiver for selling used defeat devices that are already installed as part of a vehicle sale.

If the emissions control device is missing or disabled but no defeat device has been installed, the best practice is to restore the exhaust system to factory specifications before sale. While it is theoretically possible to sell the vehicle with disclosure of all material facts, the significant risk of "statutory damages" of up to three times actual damages (such as cost of repair/restoration) plus attorney fees combined with the difficulty and uncertainty of crafting an adequate notice makes it impossible as a practical matter.

For more information read, "[Back to Basics: Emissions Tampering](#)" from the *Action Update* archives.

**Iowa EPA Investigations**

[EPA Fines Companies in Iowa and Nebraska for Alleged Vehicle 'Defeat Device' Violations](#)

[JB Automotive in Iowa Settles with EPA After Allegedly Selling 'Defeat Devices'](#)

[EPA Collects Penalties for Alleged Automobile 'Defeat Device' Violations by Two Iowa Companies](#)

## Regulatory Refresh: Iowa Smokefree Air Act

The Iowa Smokefree Air Act prohibits smoking tobacco products indoors at Iowa workplaces and requires signage to be displayed at every entrance to a workplace. That requirement includes placing a compliant "no smoking" sign on company vehicles, unless that vehicle is assigned to and exclusively used by a single employee. Vehicles in dealer inventory are also not required to have "no smoking" signs.

"No smoking" signs required by Iowa law must meet size guidelines and contain certain elements, including the words "No Smoking" or the international "no smoking" symbol,

the phone number of the Smokefree Air Act Helpline, and the Smokefree Air Act website. [IADA Services sells vehicle decals](#) and decals for [glass](#) and [solid](#) doors that are compliant with state law.

Businesses that do not comply with the law could incur fines ranging from \$100-\$500. Violations of the Smokefree Air Act may also result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred, which means violating the law could put your dealer license in jeopardy.

## Plates Must Be Transferred Within 30 Days on Early Trade Ins

The disruption in production and vehicle allocations has resulted in an increasing number of sales with delayed delivery. As reported in "[Trade In Can Happen Before Delivery](#)" (*Action Update*, September 1, 2021) the transfer of a trade vehicle to a dealer does not have to happen at the same time as the new vehicle is delivered in order to qualify for trade credit under Iowa law.

Immediate trade-in toward future delivery of new vehicle transactions are eligible for a trade credit against the 5% fee for new registration if both vehicles are adequately described in a purchase agreement that obligates the customer to purchase the new vehicle and trade the old vehicle. The plate credit must be claimed within six months of the surrender of the trade vehicle. And the customer must receive the value of the trade vehicle in the form of a credit against the purchase of the new vehicle and not in the form of cash or other payment.

Dealerships engaging in this type of transaction should be aware that there is a statutory 30-day limit on transferring plates. So while the customer has six months to claim the credit on the old plates, they only have 30 days to transfer the old plates to a new vehicle. If the customer wants to retain their plate (a likely scenario if they have personalized plates), they must do so within 30 days of transferring the trade vehicle. Failure to do so can result in either the customer having to reapply for their personalized plate or someone else acquiring the personalized plate while it is idle.

For situations where the delivery of the new vehicle and surrender of the trade vehicle are both delayed, the [IADA Motor Vehicle Purchase Agreement \(CPO6\)](#) has a standard provision permitting the trade vehicle to be reappraised. If the value of the trade has decreased, this provision permits the customer to either pay the difference or rescind the sale before taking delivery.

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## NADA Emergency Relief Fund Helps Dealership Employees

Last year after the derecho stunned significant portions of Iowa, the [NADA Foundation's Emergency Relief Fund](#) distributed \$17,500 to impacted dealership employees. Since 1992, more than \$7 million has been distributed nationwide to dealership employees facing natural disasters.

Today, the Emergency Relief Fund is helping dealership employees recovering from the devastation of Hurricane Ida. If you are able, please consider contributing to the fund, which will allow the NADA Foundation to continue providing assistance to dealership employees in need.

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## Send Photos of Your Electric Vehicle Charging Stations

We're looking for photos of dealerships' electric vehicle charging stations for the next issue of *Iowa Auto Dealer* magazine. Send your photos to Brittany Bungert at [bbungert@iada.com](mailto:bbungert@iada.com).



## OSHA Vaccination Requirement: Rules To Be Determined

The announcement last week that OSHA will require companies with more than 100 workers to mandate that employees be vaccinated or tested regularly for COVID-19 has raised many questions among Iowa dealers. Until the rule is drafted and made public, those questions will remain.

IADA and NADA will keep dealers informed as the situation develops.



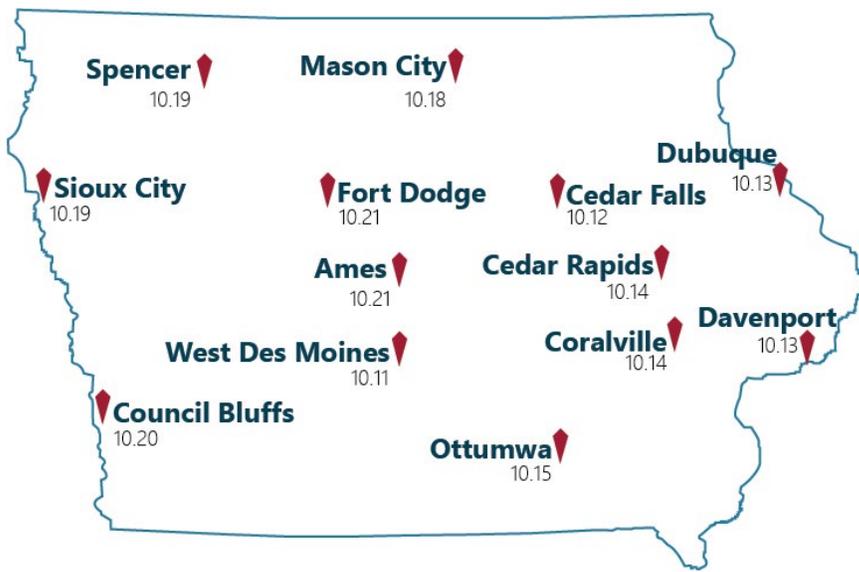
## Selling on Consignment Illegal for Iowa Dealers

It is against the law for Iowa dealers to sell automobiles on consignment.

According to [Iowa Code §321.104](#), it is a simple misdemeanor "for a dealer or a person acting on behalf of a dealer to acquire, purchase, hold or display for sale a motor vehicle without having obtained a manufacturer's or importer's certificate or a certificate of title, or assignments thereof."

Most dealership employees are aware of that law, which has a narrow exception permitting dealerships to display a vehicle obtained as part of a trade for 30 days while waiting to receive the title from the lienholder. But that law is also the reason why automobile dealers cannot sell vehicles on consignment.

Heavy duty truck dealers conducting business-to-business transactions also have a narrow exception that permits them to sell certain vehicles on consignment. Beyond those two circumstances, dealers must have the title of any vehicle they are offering for sale.



## Register for IADA Town Meetings

At least one person from every franchised dealership across the state should attend the [2021 IADA Town Meetings](#) or risk missing the information that can only be shared at our annual in-person briefings.

This year's agenda includes:

- Electronic registration and titling
- Contiguous county jurisdiction
- Electric vehicles
- The 2022 legislative agenda

See dates, times, and locations and register at [iada.com/town-meetings/](http://iada.com/town-meetings/).



## Buyers Guide 'Systems Covered' Section Only for Dealer Warranty Information

The "Systems Covered" section of the Used Car Buyers Guide can only be used to describe the systems covered by a dealer warranty. Any systems covered by a non-dealer warranty must be disclosed separately, not in the dealer warranty section of the Used Car Buyers Guide.

To brush up on the Used Car Buyers Guide rules, read ["Tricks and Traps Built Into FTC Used Car Rule"](#) and ["Common Used Car Rule Compliance Mistakes Made by Dealers"](#) from the IADA website.

## Revenue Department Clarifies Taxation on Parts, Service

The Iowa Department of Revenue recently confirmed with IADA that parts and service department labor charges incurred to recondition or repair motor vehicles held for resale in dealer inventory are exempt from sales tax. Those charges are exempt both if the repairs are made in-house or at a third-party repair facility. Dealership service departments that perform repairs on vehicles held in inventory by other Iowa dealers should verify and retain proof that the customer is indeed a licensed Iowa dealer in the event of a sales tax audit. The Iowa Department of Transportation [publishes an updated list of all licensed dealerships](#) on the first day of each month.

## Do Not Call Registry Fees to Increase

The fees to access the National Do Not Call Registry [will increase to \\$69 for a single area code](#), up \$3. The first five area codes are free, however.

Any dealership that wants to make telemarketing calls beyond current customers and prospects who have made an inquiry must register as a telemarketer with the Federal Trade Commission and check phone numbers against the Do Not Call list before dialing.

## 2022 NADA SHOW

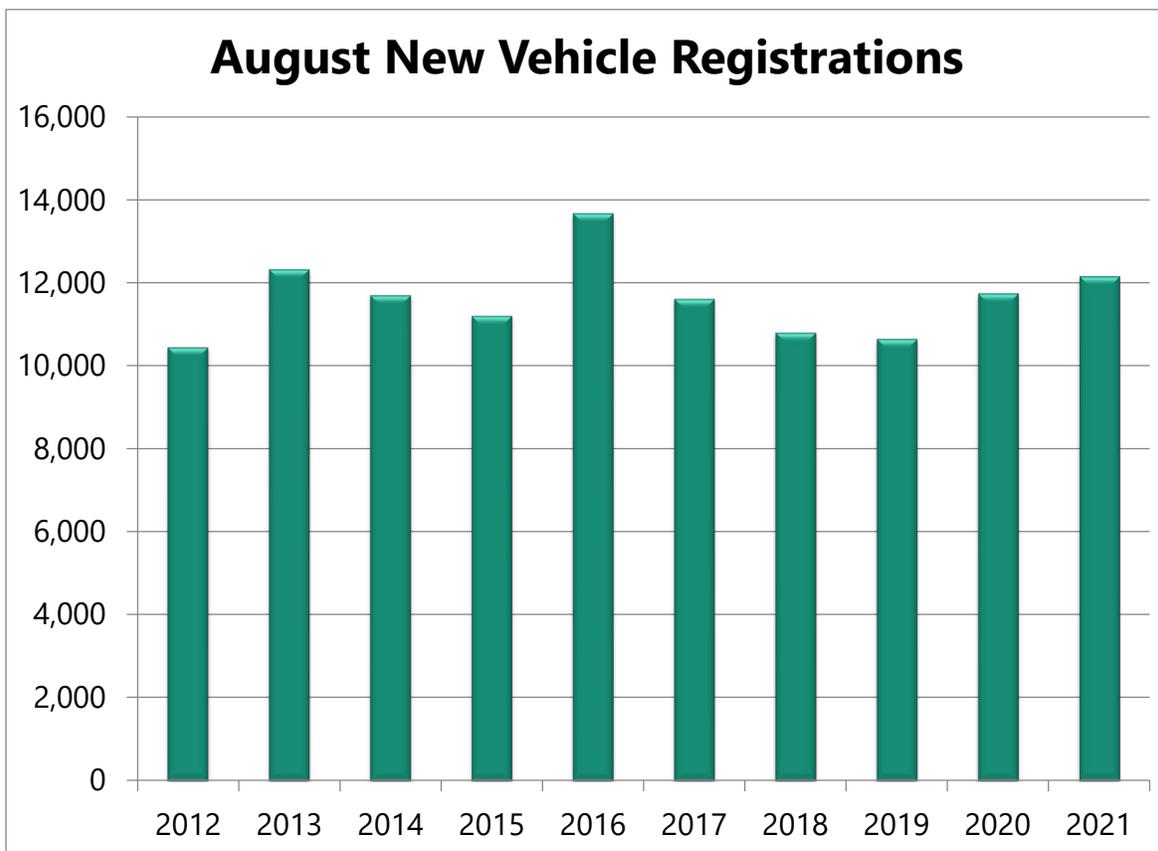
### NADA Show Registration Open

Registration for the [2022 NADA Show](#), which will be held in Las Vegas March 10–13, 2022, opened this week. Early bird registration rates are available until November 11.

Recently announced keynote speakers include:

- Dana Perino, political commentator and Fox News anchor
- Michael Strahan, NFL Hall of Famer and broadcaster
- Travis Mills, Army veteran

For more information about registration and what to expect at the NADA Show, visit [show.nada.org](http://show.nada.org).



## August New Vehicle Registrations Up 3.5%

Iowans registered 12,159 new vehicles in August, up 3.5% from the 11,745 new vehicles registered in August 2020. Through the end of August, Iowans have registered 94,752 new vehicles, which is up 21.7% from the 77,855 new vehicles registered at the same point in 2020.

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@iada.com) at 877.335.2525.

### Registration Increases August 2020 – August 2021

Make	August 2020	August 2021	Change	Percent Change
Toyota	1,044	1,252	208	19.92%
Honda	790	971	181	22.91%
Subaru	385	554	169	43.90%
Nissan	494	584	90	18.22%
Mazda	147	229	82	55.78%
BMW	56	123	67	119.64%
Jeep	799	860	61	7.63%
Volkswagen	146	205	59	40.41%
Lexus	117	169	52	44.44%
Ram	679	722	43	6.33%

### Registration Decreases August 2020 – August 2021

Make	August 2020	August 2021	Change	Percent Change
Ford	1,760	1,502	-258	-14.66%
Chevrolet	2,461	2,209	-252	-10.24%
Chrysler	222	128	-94	-42.34%
Mitsubishi	102	31	-71	-69.61%
Dodge	223	160	-63	-28.25%
Lincoln	71	48	-23	-32.39%
Jaguar	16	7	-9	-56.25%
Fiat	6	1	-5	-83.33%
Alfa Romeo	2	1	-1	-50.00%
Maserati	1	0	-1	-100.00%
MINI	16	15	-1	-6.25%

# NADA Director Update: EVs, Tax Increases, LIFO & Dealer-Assisted Financing

Fellow Dealers,

I recently attended an NADA Board briefing, which was held virtually on August 25, 2021, to update members of the Board on a number of significant developments related to NADA's top policy issues. As always, it is important for all dealers to have a good grasp on the significant challenges NADA is confronting on their behalf so they can stay engaged and help in these vital advocacy efforts when called upon to do so. For that reason, I am happy to provide a recap of our Board briefing so you can stay apprised and informed.

The year started off with a flurry of legislative activity, not only in Washington, DC, but also in a number of state capitals in the form of initiatives to allow certain EV-only OEMs to sell directly to customers. At the time, NADA was aware that the Biden Administration and the Democratic Congress would eventually turn its attention to EVs as well.

To both protect dealers and help ATAEs combat the most significant threat to the franchise system in years, NADA launched into action with a comprehensive plan to ensure that everyone—federal policymakers, state legislatures, media, industry partners and other stakeholders—understand that dealers are critical to EV sales, not an impediment to them. Key elements of NADA's narrative on EVs were set out in two advertorials published in Automotive News. The first, explaining that [dealers are all-in on EVs](#), ran on March 15. The second, laying just why [dealers are essential to broad EV adoption](#), ran on July 12. I encourage you to read both of these advertorials, if you have not already done so.

Fortunately, as noted above, our message on EVs could not be simpler: Franchised dealers are all-in on EVs and are absolutely essential to broadening EV adoption to mass-market car buyers. NADA is incorporating this messaging in all of its engagement with policymakers and with the media. This will continue to pay dividends for dealers on multiple fronts, including as more attention is paid to the development of EV tax incentives.

NADA is also working to limit the numerous tax increases Congress and the Administration are proposing which could harm franchised dealers. The House and Senate have passed the Democratic-only budget resolution that provides a broad framework for tax and spending provisions and includes a number of proposed tax increases. One example is the proposal to increase individual and pass-through business, also referred to as the S Corp, tax rates from 37% to as high as 43%. These proposals, if enacted, would strip dealers of working capital and significantly impact the resources dealers have to invest back in our dealerships and our local economies.

Additionally, due to historically low inventories and the chip shortage caused by the pandemic, many franchised dealers who use Last-In, First-Out (LIFO) accounting may face massive LIFO recapture amounts at the end of 2021. The impact of this unique dealer challenge is one that many members of Congress and regulators are not aware. NADA is working tirelessly and aggressively to secure favorable resolution to this critical issue, including through a formal petition to the Department of Treasury and complementary outreach to Congress.

Also on the advocacy front, NADA remains on guard for another confrontation with policymakers and consumer groups related to dealer-assisted financing, including against both dealer reserve and voluntary protection products. NADA is receiving increased media inquiries on vehicle financing. If past is prologue, the publication of slanted and negative stories in the press could foreshadow regulatory or legislative scrutiny or action. NADA is well-prepared and equipped to mount a vibrant defense of dealer-assisted financing if the need arises.

Finally, plans for the 2022 NADA Show are in full swing, and I hope to see many of you in person in Las Vegas in March 2022.

Sincerely,

Jeff Weber  
NADA Director



Jeff Weber

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all-in on EVs and are  
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