CAR ASSOCIATION

CONNECTICUT AUTOMOTIVE RETAILERS ASSOCIATION

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ROUTE:

GENERAL MANAGER	_____	SALES MANAGER	_____
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SERVICE MANAGER	_____	USED CAR MANAGER	_____
F & I MANAGER	_____	PARTS MANAGER	_____
TITLE CLERK	_____	OTHER	_____

Worker's Comp Safety Corner

Did you know . . . **The most common cause of accidents is an employee taking some kind of shortcut!**

BULLETIN #2-09

1.
STIMULUS BILL MANDATES TEMPORARY COBRA PREMIUM RELIEF

Stimulus Legislation Mandates Temporary COBRA Premium Relief
Effective 2/17/09, the American Recovery and Reinvestment Act of 2009 (ARRA) provides temporary, taxpayer-funded, premium relief for persons otherwise eligible to elect to continue an employers health plan coverage under COBRA.

What is COBRA?

The Consolidated Budget Reconciliation Act of 1985 (COBRA) requires employers who have 20 or more employees and maintain a group health plan to allow eligible employees (and their beneficiaries) to elect continuation health plan coverage upon the occurrence of certain "qualifying events" (e.g., termination of employment, reduced working hours, death, or divorce). Continuation health plan coverage historically has been available on a self-pay basis for up to a specified period of time (i.e., 18, 29, or 36 months). COBRA also requires employer group health plans to provide plan participants and beneficiaries with a notice detailing their rights and the procedures under COBRA.

What Does The ARRA Do?

The ARRA establishes a temporary program of premium relief for Assistance Eligible Individuals (AEIs). AEIs are those persons who became or who become COBRA eligible between 9/1/08 and 12/31/09. AEIs who elect continuation coverage may receive a 65% plan continuation premium discount. In other words, where historically employers require such individuals to pay 100% of COBRA plan premiums, AEIs may only be required to pay 35% under this temporary program. AEIs already on COBRA coverage are eligible for reimbursement of 65% of their paid premiums, either as a refund or as a credit against future premiums due. Regardless of the length of their COBRA eligibility, AEIs may only receive an ARRA subsidy for up to 9 months.

How Does The ARRA Program Impact COBRA Notice and Elections?

The Department of Labor (DOL) will issue a new model notice form by 3/19/09. NADA suggests that dealers use that form to issue the new required notice to AEIs. AEIs that become COBRA eligible on or after 9/1/08 must be given a new COBRA notice by no later than 4/18/09 (even if they received a COBRA notice previously), and may elect COBRA coverage up to 60 days after receiving the new notice. Thereafter, AEIs must receive new COBRA notices only if they become COBRA eligible prior to 1/1/10.

How is the premium subsidy reimbursed?

AEIs who elect COBRA coverage typically will pay 35% of the premium, either through the employer or directly to the health plan administrator or provider. An employer may offset its share against any payroll taxes due. Multiemployer or insurer health plans must obtain reimbursement from the government on their own. For more on premium subsidy reimbursement, see: http://www.irs.gov/newsroom/article/0,,id=204505,00.html.

COBRA CONTINUED . . .

How does the COBRA Subsidy Impact Your Dealership?
When you consider the costs of terminating employees, you must consider the COBRA subsidy provisions that were included in the stimulus bill enacted last month.

Under that bill, employees who lose their jobs and who lose their health coverage as a result are entitled to a subsidy of 65% of their COBRA premiums for nine months. An employee who was terminated from employment and became eligible for COBRA coverage between September 1, 2008 and December 31, 2009 is eligible for this subsidy.

This additional cost is really only an interest free loan to the government since any business paying the subsidy is entitled to a credit against taxes paid to the federal government. However, there is a real cash flow impact of this "loan". Before terminating employees who may be eligible for COBRA coverage, consult your accounting advisor to determine the impact on your business.

What should I do now?

1. Make a list of all of your AEIs to date.

2. Contact your health plan, payroll, and/or COBRA administrators to determine how they intend to assist you with this temporary premium relief program.

3. Provide all AEIs with the new DOL Notices (found at: **http://www.dol.gov/ebsa/COBRAmodelnotice.html**)

4. See the DOL website: **http://www.dol.gov/ebsa/cobra.html** for more information.

5. Participate in the NADA Webinar on this subject scheduled for 3/31/09

2.
NEW FTC RESTRICTIONS ON AUTOMATED TELEMARKETING CALLS

Starting September 1, 2009, an "Existing Business Relationship" will not be enough . . .

In 2008, the FTC adopted an amendment to the Telemarketing Sales Rule ("TSR") that, among other things, prohibits prerecorded telemarketing calls without a consumer's express written agreement to receive such calls. Some changes went into effect December 1, 2008; others are effective September 1, 2009. As of December 1, 2008 sellers (including dealers that make such calls) and telemarketers were required to provide a key-press or voice-activated opt-out mechanism promptly at the outset of any prerecorded message all. This requirement applies to calls delivering pr-recorded messages, whether answered by the recipient in person or answered by an answering machine or voicemail service, and requires that any prerecorded message call promptly disclose at the outset a toll-free number that a consumer may use to assert a request not to receive such calls. The rule also requires that automated calls

FTC CONTINUED . . .

allow the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call.

Under the new rule, sellers and telemarketers may, for the time being, continue to place calls that deliver prerecorded messages to consumers based on an existing business relationship ("EBR") with that customer – provided they do so in compliance with the new requirement that prerecorded message calls include an automated interactive key-press or voice-activated opt-out mechanism.

However, as of September 1, 2009, sellers and telemarketers may not make such prerecorded calls unless they have a prior express written agreement from the recipient to receive such calls. That written agreement:

1. cannot be required (directly or indirectly) of customers as a condition of purchasing any good or service;
2. must "evidence the willingness" of the recipient to receive such calls; and
3. must include recipient's telephone number and signature (although such signature may be electronic in compliance with ESIGN).

3.
FTC INCREASES CIVIL PENALTIES

The FTC has announced an increase in civil monetary penalty amounts effective February 9, 2009. The adjustments are based on the increase in the Consumer Price Index (CPI), and include an increase in the maximum penalties per knowing violation of the Fair Credit Reporting Act (examples of which would include the Red Flags, Address Discrepancy, and Affiliate Sharing Rules) from $2,500 to $3,500. In addition, the maximum statutory penalty per violation for certain FTC rules that are enforced under the FTC Act will also increase from $11,000 to $16,000.

Under the FTC Act, when a rule (such as the GLB Safeguards Rule, Privacy or Red Flags Rule) continue to be violated despite an order to comply, the FTC can file a lawsuit in federal court seeking $16,000 for each violation of that rule as well as equitable relief.

4.
NEW I-9 FORM EFFECTIVE 4/3/09

The use of the newest version of Form I-9 becomes effective April 3, 2009. This version of Form I-9 narrows the list of acceptable identity and employment authorization documents, requires employers to accept only unexpired documents and makes several technical changes.

Download the new Form I-9 at http://www.uscis.gov/files/form/I-9.pdf

5.
NHTSA PUBLISHES INSURANCE COST BOOKLETS

The 2009 insurance cost information booklet that all car dealers are required to make available to all prospective buyers is now available. Each year, the National Highway Traffic Safety Administration (NHTSA) produces a new version of the booklet, which includes comparative information regarding differences in vehicle collision loss experience that could affect auto insurance costs.

Pursuant to 49 CFR 582-4, all auto dealers must make the booklet available to customers. According to the Federal Register, NHTSA is mailing a copy of the 2009 booklet to each dealer the Department of Energy contacts to distribute the "Gas Mileage Guide". Dealers who have not yet received a copy of the booklet should contact NHTSA's Office of International Policy, Fuel Economy, and Consumer Programs at 202-366-0846. Dealers may also obtain a copy through the NHTSA web site at **http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/Vehicle%20Safety/Articles/Associated%20Files/2009_Insurance_Costs_Comparison.pdf**

The CAR Association suggests that dealers keep a copy of the guide available and reproduce it for customers upon request.

6.
FMLA REPORTS DUE APRIL 1

Companies that employed 75 or more employees during the payroll week that included October 1, 2007, need to file their Annual Family Medical Leave Experience Report before April 1. The form should be completed and submitted online at the Department of Labor's Web site, www.dol.gov.

Employers must report leaves of absence that employees have taken for the birth or adoption of a child, to care for a seriously ill family member or for the employee's own serious illness. Leaves lasting less than five days and portions of leave exceeding 16 weeks need not be reported.

7.
CHANGES TO THE FAMILY & MEDICAL LEAVE ACT

As a result of recent legislation, the Department of Labor has announced changes to the regulations for the federal Family and Medical Leave Act. These changes took effect January 16, 2009.

The new regulations may have an important impact on your dealership's FMLA policy. Consequently, you should review your policy and make the necessary changes.

Military Families

The most critical changes are the result of the passage of the Military Family Leave provisions in the National Defense Authorization Act of 2008.

FMLA CHANGES CONTINUED . . .

Because of this statute, there are two new major benefits for families of military personnel.

- Military Caregiver Leave – Employees who are family members of service members will be able to take up to 26 work weeks of FMLA job protected leave in a single 12-month period (as opposed to 12 work weeks of general FMLA leave) to care for a service member with a serious illness or injury incurred in the line of duty while on active duty. Family members include a spouse, son, daughter, or nearest blood relative.
- Military Family Affairs Leave Employees who are family members of National Guard and Reserve members may take up to twelve work weeks of FMLA job protected leave to manage family affairs while the service member is on active duty or has been notified of an impending call or order to active duty. Basically the regulations allow the FMLA leave to an employee to use for what the regulations call "any qualifying exigency" which includes short notice deployment, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and other activities agreed between the employer and employee.

Technical changes

The regulations also make a number of technical changes to address court decisions.

- Light duty – the regulations make clear that an employee voluntarily performing a light duty assignment is not on FMLA leave.
- Waiver of FMLA rights – the rule clarifies that an employee and an employer may settle an employee's claim for past FMLA leave without court or Department of Labor approval. This clarification was necessary because of a court decision that such claims would require approval. However, waivers of future FMLA rights continue to be prohibited.
- Employee notice – the revised rule makes clear that an employee seeking FMLA leave must follow the employer's usual call-in procedures for reporting absence under unusual circumstances.

NOTE: Courtesy of **Reynolds & Reynolds**, the CAR Association will be sending each member dealer a complimentary 8-in-1 Labor Poster within the next two weeks. This updated poster **will** include the new FMLA Poster and fulfill your posting requirements. Please make your staff aware of its imminent arrival.

8.
RED FLAGS RULE DEADLINE IS MAY 1, 2009

Businesses caught a reprieve last fall when the FTC suspended enforcement of the new "Red Flags Rule" until May 1, to give creditors and financial institutions more time to develop and implement written Identity Theft Prevention Programs.

For area dealers who were not ready for the November 1 deadline, it is hoped they haven't spent the six-month extension with their feet on their desks!

The Red Flags Rule – named after the symbol of a warning of possible trouble – is a sequel to the Safeguards Rule issued by the FTC in 1999.

AN NADA guide to help dealers with Red Flags compliance is available at www.nada.org/RedFlags. The cost of obeying the rule will depend on a dealership's size and complexity.

However, there are bright spots to consider for dealers who feel overwhelmed or annoyed by yet another compliance burden:

Having a written Identity Theft Prevention Program can increase the likelihood that employees will more consistently follow policies and procedures the dealership already has in place to help ward off identity theft and fraud.

Also, although dealers must carefully analyze their operations and prepare an ITPP that is specifically tailored to their respective businesses, "the task is not insurmountable and dealers should not automatically conclude that they must expend significant sums of money to achieve compliance," said Paul Metrey, NADA Director of Regulatory Affairs.

Dealer compliance includes:

- Conducting a preliminary risk assessment
- Constructing a written ITPP
- Knowing the indicators of identity theft and how to respond to them
- Training Requirements
- Obtaining service provider oversight
- Involving a dealership's board of directors

The new Rule forces "financial institutions" and "creditors" to comply with the Rule. Dealerships are swept up in the matter because the FTC defines dealers as creditors.

In summary, if a dealer can't form a reasonable belief under his ITPP that a credit report relates to the customer before him, the transaction must be stopped.

9.
CALL CONGRESS ON CARD CHECK LEGISLATION

The "Employee Free Choice Act," or "Card Check" legislation that facilitates union organizing by changing the vote from private balloting to group balloting, has now been introduced in both the House and Senate (H.R. 1409 and S. 560).

The CAR Association and NADA urge dealers to phone their members of Congress to express their opposition to this legislation. The Capitol switchboard telephone number is (202) 224-3121

For more information see **www.NADA.org**

10.
DETAILS ON SBA LOAN GUARANTEE PROGRAM

The New Motor Vehicle Dealer Loan Guaranty Campaign was recently launched by the Small Business Administration (SBA). Dealerships with total annual receipts of less than $29 million are eligible for the SBA-guaranteed loans. Dealers impacted by the spiraling economy may benefit from the Program, particularly if they are unable to obtain credit on a conventional basis. The SBA has indicated the loans can be used for "any worthwhile purpose," including working capital or refinancing of existing debts. Financing a dealership's total change in ownership is permissible if the aim is to preserve the dealership or promote its development. The one major exemption is that the SBA loans ***cannot be used for inventory floor planning***. Questions regarding the Program can also be directed to the NADA Hotline at 888-672-5147. A list of lenders participating in the SBA's Preferred Lenders Program can be found at the following Web site: **www.sba.gov/services/financialassistance/7alenderprograms/plp/index.html**

11.
NADA COMPENSATION SURVEY

The CAR Association has once again contracted with NADA to survey Connecticut dealerships to determine current levels of compensation for management and non-management employees. This compensation survey has become a useful tool for members.

Tens of thousands of dealerships in dozens of state and metro associations participate in this survey, and the resulting data provides valuable information on a local, state regional and national basis. Remember, the greater the number of survey participants, the more credible the information will be for you and other CAR Association members. The results of the survey will be tabulated by NADA and distributed this summer.

A copy of the survey is enclosed with this newsletter. The survey can also be downloaded or completed and submitted online at www.nada.org/survey. Please complete your survey and return to NADA by April 30, 2009. Call the Association office (860) 293-2500 with any questions.

12.
DMV CORNER

The Department of Motor Vehicles has asked us to notify our dealers of their request that you follow the procedure below when you are unable to process a transaction via your On-Line System:

1.) Have the customer sign a manual H13 application

2.) Give the customer a K326 temporary registration (same as the Delinquent Tax customers)

3.) **New plates** – give the customer the next plate in your online inventory

Transfers – plate the car with the customers' plates

4.) "Flag" the new plate in your online system as "issued manually" (same area as obsolete stickers)

5.) Give the customer a temporary window sticker

Let the customer go on their merry way!

Submit the application on a K201 online transmittal sheet with all the H13, supporting documents and the fees. If you don't have the K201 – use the G138 but be sure to write across the top "POST SALE" - this way the dealer unit will not assign another plate to the customer and we'll know that you couldn't do it online for the reason written on the K201. This procedure can be used for any transactions that **CANNOT** be done online, such as out-of-state license customers; suspended customers; Lease buyouts; info doesn't match on license, etc…

The K326 temporary registrations and the K201 online transmittals can be ordered from Vanguard as needed.

This should significantly cut down your need to send runners to the branches.

Note: DMV has made the updated Dealer Online and Dealer Registry Manuals available to us to provide electronically to our members. To receive your copy of the manual(s) please call the Association office at (860) 293-2500 or email us at cara@ctcar.org.

13.
CAR CARES
TEEN CHALLENGE

The cut-off date for the CAR Cares Teen Challenge was March 16, 2009. Please forward any Challenge entries you have to the CAR Association office at 36 Trumbull Street, Hartford, CT 06103 by April 1, 2009.

CAR Association Headquarters Named
The Stephen F. Gabriel Center

On February 26, 2009, in a building dedication ceremony conducted by CAR Association Chairman Jeff Aiosa of Carriage House of New London, CAR headquarters, located at 36 Trumbull Street in Hartford, was officially named The Stephen F. Gabriel Center.

Rose & Ed Wilcox, Steve's sister and brother-in-law with plaque commemorating his service to this Association.

Over 100 family, friends, staff, business associates, and distinguished guests, including retired Senator Billy Ciotto and DMV Deputy Commissioner John Herman attended the ceremony that honored CAR Past President Steve Gabriel, who passed away last January. CAR Past President and Legislative Chair Ken Crowley stated, "Steve Gabriel devoted 23 years of his life to the members of CAR and to the automotive industry. It is fitting to name the Association headquarters in his honor."

The program concluded with the unveiling of a plaque designating the new name, which is permanently affixed to the front entrance of the building. The Association would like to recognize the substantial effort Past President Al Anglace of Valley Motors put in to the design and manufacture of the plaque which would honor his good friend Steve Gabriel. Thank you, Al.

Rose Wilcox, President Jim Fleming and Chairman Jeff Aiosa unveiling the Plaque

In Memoriam

It is with sadness that we inform you of the passing of Bernard J. 'Bernie' Fitzpatrick, owner of Fitzpatrick Chrysler Jeep in Ansonia. Bernie was a longtime CAR Association member and past president of the New England Chrysler Dealer's Advertising Association.

Bernie is survived by his two sons, Paul and Neal and three daughters, Elizabeth, Janet and Marie.

Donations may be made in his honor to the Salvation Army, 26 Lester Street, Ansonia, CT 06401 or to St. Lawrence Church, 505 Shelton Avenue, Shelton, CT 06484.

Our condolences go out to the entire Fitzpatrick family.