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COBRA subsidy program ends, but not employer liability

Former employees' rights in finishing COBRA subsidy

The federal government's program to subsidize COBRA payments for *involuntarily terminated* workers came to an end on May 31. The grace period for such former employees to apply for the subsidy continues, however, along with the special COBRA coverage for former employees still in the subsidy queue. Accordingly, employers are reminded that they remain liable for COBRA subsidy compliance and are cautioned to be extra careful in providing the coverage and negotiating the complex filing processes of the program for those former employees who are currently participating. In the extreme, this could be for 15 months of subsidy administration for an employee terminated the end of May, 2010.

The COBRA subsidy law requires the employer to "front" 70% of the monthly insurance premium by paying the insurance carrier on behalf of a former employee, subsequent to his/her payment of the remaining 35%. The government will "refund" the former employer's contribution by way of the employer filing for a payroll tax credit for that amount. "It all sounds simple," says John O'Donnell the head of WANADA's employee benefits and insurance brokerage operations, "but it's critically important that employers have all the backup documentation indicating they received the former employee's contribution, that they paid the insurance company the required premium, and they properly and rightfully apply to the IRS for payroll tax credits. A reliable COBRA administrator, like WANADA, will handle all of that for client employers," O'Donnell says. "But whether an employer does COBRA in house or with an unreliable COBRA administrator, the record keeping and compliance can be daunting and unmanageable, opening the door to federal regulatory scrutiny and reprisals."

WANADA members are urged to review their compliance procedures and check with their tax advisors on the best way to proceed with IRS form 941 for payroll tax credits. The WANADA employee benefits and insurance brokerage department is also available to answer questions. Call John O'Donnell or Martha Kowalski at (202) 237-7200.

Council chairman shares vision for DC with WANADA leaders

Vincent Gray cites school turnaround, comprehensive education reform and citizen unity as keys to city's success

At an informal meeting at WANADA headquarters with past and present dealer group leaders this week, DC City Council chairman Vincent Gray spent a good bit of his time speaking about the “education imperative” as the only sure basis for improved quality of life in the District, no less for the half million residents who live within its borders, the millions who live in and around the Beltway, and the millions more who visit from around the country and the world each year.

“As the capital in the National Capital Area and the capital of the U.S., Washington, DC is also arguably the capital of the world,” said Gray, “and a vibrant, productive citizenry is fundamental to having the city be all it can be and all it needs to be.”

A turnaround of the DC school system is *job one*, according to Gray. But more needs to be done than simply tearing out the dysfunctional infrastructure that’s been going on over the past few years, he says. “A workable plan is needed going forward that not only roots out the incompetent among educator professionals, but which also incentivizes the competent,” he said. “The parents of school children must be involved, too, from preschool levels, on up through high school, which hasn’t been happening here,” said Gray, “and that must change now.”

Referencing career education, Gray said it is “lacking to non-existent” in the city, at which point he listened with interest about automotive career efforts initiated by Toyota and separately by WANADA at the Phelps Career Center in Northeast and at Balou High School in Anacostia.



WANADA dealers meet over coffee with DC City Council chairman Vincent Gray

From left to right; Vince Sheehy, Sheehy Auto Stores; Robert Fogarty, Sport Automotive; Harry Martens, Martens Volvo; Barbara Skinner, consultant to Toyota; Harold Redden, Fitzgerald Auto Malls; Tamara Darvish, DARCARS; Charles Stringfellow, Brown Automotive; Vincent Gray, chairman, DC City Council; George Doestch, Apple Ford; John O'Donnell, WANADA; Randy Whalen, RRR Automotive; Geoff Pohanka, Pohanka Automotive; Gerard Murphy, WANADA; and Patrick Kavanaugh, Hamilton & Hamilton.

Gray pointed out with pride the recent opening of the community college division at the University of the District of Columbia that he had a hand in shaping, with which WANADA has been in contact regarding its Automobile Dealer Education Institute (ADEI) technician training program.

Another significant drawback to an improved quality of life in the District, Gray said, are the deep divisions that are surfacing between citizens along racial, economic and regional lines. "Washington isn't black or white, rich or poor, upper Northwest or Anacostia," he said. "It's Washington, DC, the city we call home and all want to be proud of, and I think I'm one who can bring people back together," said Gray speaking of his campaign for mayor. "It's not that being mayor commands a lot more salary or prestige than chairman of the council, but the mayor can be the change agent the city needs to make real progress, and that's why I'm applying for the job," said Gray.

The mayoral contest between Gray and incumbent mayor Adrian Fenty will be determined in the Democratic Party primary election next month. At this writing, Chairman Gray is leading Mayor Fenty in the polls by a small margin of three to five percentage points.

MADA/WANADA schedule Maryland dealer briefing on regulatory matters

September 16, Greenbelt Marriott

Maryland dealers in the metropolitan area will want to put the morning of Thursday, September 16, 2010 down on the calendar for a joint MADA/WANADA member briefing on new and existing state regulations. There will also be a review of the upcoming mid-term elections and what might be in store for the 2011 state legislative season.

The briefing, to be held at the Greenbelt Marriott, will include presentations from MVA representatives who will discuss the new temporary tag procedures and the status of Cal/LEVs.

There is a \$25 per person charge to attend the briefing, where coffee and danish will be provided. Registration begins at 9:00 am and the program will commence at 9:30. Dealers can preregister by completing the form attached and faxing it to the attention of Kristina Henry at (202) 237-9090. For more information, please contact Ms. Henry at (202) 237-7200 ext. 18, or kh@wanada.org

Employee text messages protected, even when using employer-provided equipment

A recent Supreme Court ruling holds that employee text messages are protected by the constitutional right to privacy, even if the employee is using employer-provided equipment to send those messages, *and* despite employer policies stating employees have no expectation of privacy when using such equipment. Only when there is a clear, legitimate and documented violation of the "rules of use" of such equipment can the 4th Amendment protection not apply, the court said.

The ruling was issued in the case of a City of Ontario, California employee who used his city provided cell phone extensively for personal communications and had argued that those messages were protected under the 4th Amendment right to privacy. Importantly, the court granted the “reasonable expectation to privacy” argument set forth by the employee, but ruled that because an audit had found significant overage charges on his account, the city did have a legitimate and reasonable right to review the texts to ensure the employee was not “abusing” the privilege.

The point for business owners here is that they must be aware of what steps to follow before reviewing an employee’s electronic communications, even on company provided-equipment.

Employers are encouraged to do a thorough review of employee internet, e-mail and cell phone policies and make sure they contain language which limits an employee’s expectation of privacy in their use of company-provided technology which restricts an employee’s legitimate use of the technology during work time to work-related texts or e-mails.

Washington area among Top Ten “best places to buy a vehicle”

WANADA dealer members have always known this of course, but now comes statistical evidence to prove the point; the Washington DC area is indeed one of the best places in the country to buy a vehicle. According to the folks at AOL who run the online company’s auto website, car buyers in the Washington metro area can expect to get just about the best deals available anywhere, with an average discount from MSRP of 9.9%. That is just a fraction under the amount available in the top market for discounts in the U.S., Tampa/Orlando.

The study also found that the best states for car shopping were Maryland (with an 8.1 percent discount off MSRP), Virginia (with 7.6 percent) and Florida (with 7.5 percent).

AOL performed the study in cooperation with the car buying site Zag, which offered confirmed vehicle pricing to its members through partnerships with more than 3,400 dealers across the country who are required to provide real-time pricing information to the company.

Zag and AOL sifted through that data to find pricing for 10 sample vehicles, including the 2011 BMW 328i, 2010 Cadillac CTS, 2010 Chevrolet Traverse, 2010 Ford F-150 SuperCrew, 2010 Honda Accord sedan, 2010 Honda Civic sedan, 2010 Hyundai Elantra, 2010 Mazda3, 2010 Nissan Altima, and 2011 Toyota Camry. They then averaged the maximum discounts being offered on the models for its metro-area ranking. For its ranking of states, it made a calculation based on average vehicle discounts.

The best metro markets were all areas with lots of dealerships, suggesting that competition between them is a key factor in increasing discounts and lowering prices. “These are areas where dealerships are really competing for business and customers are winning,” Karim O’Driscoll, Zag’s director of pricing strategy, said.

Top 10 Best Deals Markets

Market	Average % Off MSRP
Tampa/Orlando, FL	10.0%
Baltimore/DC Area	9.9%
Atlanta, GA	9.4%
Newark, NJ	9.3%
Los Angeles, CA	9.1%
Dallas, TX	8.8%
Philadelphia, PA	8.8%
Miami, FL	8.4%
Boston, MA	8.2%
San Francisco, CA	8.1%

The study also revealed that typically the best new vehicle prices are found on the outer edges of metro areas, likely because dealerships there are forced to compete aggressively with urban stores that are a relatively short drive away.

It's no secret that discounts tend to be least available in rural areas, simply because the competition is less intense. "There may not be many BMW dealers out in the most picturesque parts of a state," O'Driscoll said.

Hybrid/EV sales to reach near 40% of U.S. market by 2020

A new report by The Goldman Sachs concludes that "2010 marks the beginning of the mixed-powertrain era, where hybrid-electric vehicles, plug-in hybrid (electric) vehicles, electric vehicles and conventional gasoline/diesel engines will coexist, paving the way for 2020 when some 38% of new vehicles sold in the U.S. will be powered by the technology."

Goldman estimates global sales of HEVs and PHEVs will rise to 14 million units in 2020, 13% of the global automotive market, and that EV sales will reach 1.7 million units by then, or 2% of the market.

The report "expects the proportion of eco-friendly vehicles to surge in the run-up to 2020, reaching 45% in Japan, 38% in the U.S. and 20% in Western Europe and that a 12% penetration rate can be expected in vehicles sold in China.

The Goldman Sachs report says tougher emissions regulations related to carbon dioxide reductions will be the driving force behind the growth of hybrids and electric vehicles. Indeed, the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) will release a new fuel economy standard for 2025 next month that is expected to be 60 mpg, some 25 mpg higher than the 35.9 mpg standard set for 2015. Industry experts agree that only an extensive turn to hybrid and EV powertrains will allow the industry to meet those standards.

Goldman Sachs expects that the price of lithium ion batteries will drop 40%-50% over the next five years as production volume expands and that there will be a rapid growth in public-access and fast-charging EV facilities, something that is already happening in a number of American, European and Japanese cities.

NADA Pre-Owned Vehicle Webinar – August 26

Title: Improve Pre-owned Profitability with NADA AppraisalPRO
Date: Thursday, August 26, 2010
Time: 2:00 – 3:00 PM EDT
Location: <https://nada.webex.com/nada/onstage/g.php?t=a&d=483610743>
Registration: Required
Event Password: nada

The used car market has turned transparent. And, with research showing that more than 50% of consumers are dissatisfied with their last trade-in experience, having a good, clear appraisal process in place is even more critical. Start with a realistic number based on current

market conditions and you're halfway there to a satisfied customer and a more profitable bottom line.

Learn how to:

- cope with a used car market that has turned transparent
- deal with consumers who are researching trades before coming in to the dealership and arrive with erroneous information
- put key market data at your fingertips with appraisal tools, such as NADA AppraisalPRO®
- interpret and apply market data to reach a precise trade number through a clearly defined and explainable process
- support or create your appraisal process

For: Used Car Managers, General Managers, Sales Managers and Dealer principals

Speaker: Stu Zalud, Director, Dealer Services, NADA Used Car Guide and a 38-year veteran of the dealership world

Inside the Beltway...

When told that Speaker Pelosi said she thought that groups opposed to the construction of the controversial mosque and Islamic center next to the 9/11 ground zero site in New York should be investigated by the federal government, one such opponent group spokesman chuckled and had this to say:

“When she (Speaker Pelosi) comes across with statements like this, it’s reminiscent of the crazy lady in the neighborhood where you grew up who would throw open the upstairs window and pitch hot water on you and your friends when you went to retrieve your football that had bounced into her yard...”

Thought for the week...

Half of life is spent trying to find something to do with the time you've rushed through life trying to save.

--Will Rogers,

Died in a plane crash 75 years ago this week.



Maryland Dealer Briefing On Regulatory Matters

Thursday, September 16, 2010
Greenbelt Marriott

Get updated on the latest pending and current Maryland laws that affect you and your dealership.

Don't miss it!

Registration: 9:00 to 9:30 a.m. Session: 9:30 until 11:00 a.m.
Cost: \$25 per person

TO REGISTER, PLEASE RETURN THIS FORM
WANADA, 5301 Wisconsin Avenue, NW, Suite 210, Washington, DC 20015
Fax (202) 237-9090

For more information/questions, contact Kristina Henry at WANADA, (202) 237-7200 ext. 18, kh@wanada.org

Attendee(s) _____

Dealership _____

Submitted by _____

Address _____ City _____ State _____ Zip _____

Phone _____ Fax _____ Email _____

Method of Payment:

Check Enclosed \$ _____ Make checks payable to: Washington Area New Automobile Dealers Association

Credit Card (Visa, AMEX, MC, Discover) (Circle one) Credit Card _____

Exp Date _____ Security Code _____

Name as it appears on card (please print) _____

Billing Address _____

City _____ State _____ Zip _____

Signature _____ Amount to be Charged _____

Please bill us