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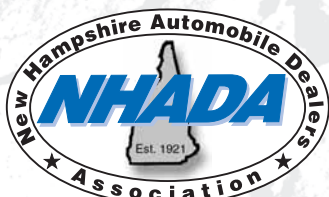
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www.nhada.com

A Grass-Roots Success

Pete McNamara, President

I am pleased to report that the full House voted to kill House Bill 1558 on March 5. Credit for stopping this onerous legislation belongs to old-fashioned grass-roots lobbying: NHADA members calling and writing.

NHADA members responded quickly and effectively to my request that they call their elected officials on the House Commerce Committee. Member calls and letters, combined with NHADA staff lobbying at the State House, resulted in a 17-1 Committee vote to pass an Inexpedient to Legislate motion (in short, to kill the bill).

The bill was then put on the Consent Calendar with dozens of other bills. Although any one Representative could have pulled HB 1558 off the Consent Calendar, it remained tucked away. The full House then voted up or down on this entire package of bills.

Because our industry represents approximately 25 percent of all retail sales in the state, there are times when we fall under close legislative scrutiny. It is important that those elected officials who vote on issues that impact our business have a

better understanding of who we are and what we do.

Using HB 1558 as an example, your elected officials took the time to carefully consider the bill because NHADA members took the time to contact them. Without the simple action of reaching out, all the dealers would have been stuck with the following burdens:

- Disclosing all fees charged by automobile dealers, including in advertisements and on window stickers;
- Itemizing all fees;
- Advertising all fees, including the Admin Fee, in the same font size as the vehicle's price; and

- Class action lawsuits, treble damages, and plaintiff attorney fees!

Keep watching your e-mail for NHADA's State House Report, which provides comprehensive updates on all the legislation that Dan Bennett and I are tracking. Thank you again for your support!

If you have any questions or concerns, please feel free to contact me at 800-852-3372 or at pmcnamara@nhada.com.

Stay tuned!▲



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Contacts: Chris Moran and Tom Phoenix

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Albany, NH 03818
447-1178

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NHAEF Center for Automotive Education and Training

Upcoming Seminars – REGISTER ON-LINE (www.nhada.com)

April 15	Preventing Workplace Harassment (HR Seminar Series)
April 22	Advanced Automotive Bookkeeping
May 13	Company Policies and Employee Handbooks (HR Seminar Series)
May 20	NH Title Regulations – Quality Control & Legal Issues
May 21 & 22	F & I Boot Camp – A Solid Foundation to Achieve Success (two-day seminar)
June 12	Hazardous Materials Three-year Certification Training (Ground and Air)

As seminars are added, they will be listed in the Events Calendar at www.nhada.com.

Please contact Jean Conlon at 800-852-3372 if you have questions.

AUTOCAP – Dispute Resolution Service

Lisa Lavoie
AUTOCAP Coordinator



AUTOCAP is the in-house consumer arbitration/mediation program sponsored by the New Hampshire Automobile Dealers Association. Our goal is to provide consumers a dispute resolution mechanism that avoids costly legal litigation, including small claims court and the Attorney General's office.

Most of the complaints we receive are referred to us by the Attorney General's office and other State agencies. You may preempt this action and send your customers to us for mediation before they have the opportunity to file a complaint elsewhere.

We recognize that most consumer complaints stem from a breakdown of communication between the dealership and their customers. AUTOCAP's primary purpose is to repair the communication breakdown by providing a system in which your customers may air their grievances and get fair and equitable results.

We'll listen to your customers, identify the root of their complaints, and work with you to resolve their concerns. Most times, we can dispel their uneasiness with a phone call. Other times, cases may need to go before an arbitrary panel comprised of dealers and consumers.

If you wish to hear more about AUTOCAP or if you would like to receive a supply of AUTOCAP brochures, please feel free to contact me at 800-852-3305 or by e-mail at llavoie@nhada.com.▲

Notice: NHADA Membership Dues Renewals

Please watch your mail for your 2008-2009 NHADA Membership Dues Renewals. We appreciate and value your membership and look forward to your continued support. Membership renewals are due May 1.▲

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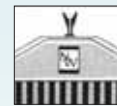
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Are You Checking the OFAC List? You Should!

Pete McNamara, President

All citizens and businesses, including auto dealerships, are prohibited under Federal law from conducting business with blocked persons. In order to comply with this requirement, the dealer must check a customer's name against the U.S. Treasury Department's Office of Foreign Controls (OFAC) blocked persons list prior to completing any sale.

The OFAC list can be found on the Web at www.treas.gov/ofac/tllsdn.pdf. Failure to comply with this law can result in substantial fines.

If a potential buyer's name is on the list, the dealer must then verify if the name is a "valid" match by specifically following the steps set up by OFAC as found on the Web. If, after taking those steps, the customer is still a valid match, the customer must be reported to OFAC's compliance hotline at 800-540-6322. OFAC will further screen the name and direct the dealer on how to proceed, either by indicating that it is not an exact match and authorizing the sale, or deciding what further action needs to be taken if it still appears to be a valid match.

Besides manually checking the list yourself during the sales process, there are also several software vendors who will provide a way to automatically check the OFAC list. Companies that provide dealerships with credit reports may also run an OFAC check for a small charge. Although all of your lenders should also be running OFAC checks prior to approving a loan, you should not rely upon them to do what you should be doing in the first place.

If you have any questions, please feel free to contact me at 800-852-3372 or at pmcnamara@nhada.com.



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New On-Line Store Search Box

Louanne Theriault, Director of Communications

For your convenience, a new “Store Search” box has been added to the Home Page of www.nhada.com. The box is located directly underneath the main “Site Search” box. The new “Store Search” box is in addition to the “Store Search” box that is present once inside the store.

By having a “Store Search” box on the Home Page, you will save time as it allows you to bypass clicking on the On-Line Store link on the Home Page in order to enter the store. Previously, in order to search for a particular form or product from our On-Line Store, visitors had to first click on the On-Line Store link in the Site Map on the Home page in order to get to the store, and then they used the Store Search box once inside the store.

To find a particular form or product by name, using either of the “Store Search” boxes, simply type in all or part of the form or product name. If you wish to search by form or product number, you must enter the exact number, preceded by NH with a dash. For example, to search for Accounts Payable Envelope, form number A-1900, you must enter in the search box: NH-A-1900.▲

Store Reminders

My Account – remember that you may view all of your orders once inside the store under “My Account.” Orders are listed with the most recent order first. You may view each individual order to see the quantity previously ordered.

Monthly On-Line Specials – each month, all members receive e-mails noting the on-line specials for the month. In addition, members receive notice of the specials with their forms billing statements, and they are always noted on the Home Page of www.nhada.com. In order to take advantage of the savings, you need to simply place your order on-line.

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Mark Your Calendars – Upcoming Meetings and Events

Louanne Theriault, Association Meetings Coordinator

NHADA, with the assistance of our Meetings Committee, has planned a variety of meetings and events throughout 2008. These meetings and events will provide meaningful information and workshops to members; social and recreational activities allowing for networking opportunities; and, finally, forums for NHADA members to partake in some good old-fashioned camaraderie, which is essential for the continued strength of NHADA.

Spring NHADA Town Meetings

NHADA will host six Town Meetings in May. The agenda will include: a legislative update; NHADA's "going green" initiative; WCT rebate checks; and, importantly, member feedback. Watch your mail for registration materials.

May 13, 2008	A Fireside Inn & Suites	W. Lebanon
May 14, 2008	Northeast Delta Dental	Concord
May 15, 2008	Great Bay Community College	Portsmouth
May 20, 2008	NHCTC	Nashua
May 21, 2008	North Conway Grand Hotel	North Conway
May 22, 2008	Best Western Sovereign	Keene

NHADA Summer Symposium – June 29-30 Wentworth by the Sea Hotel & Spa, New Castle, NH

This event will be the premier dealer/dealer manager event of the year. It will kick off on Sunday, June 29, with the NHADA Golf Tournament, which will be held at The Ledges Golf Club in York, Maine. Participants will enjoy a lavish cocktail reception and dinner later that evening at the hotel, followed by a fun "Networking" Party. Monday morning, June 30, is set aside for our business program. Two general sessions and four Line Meetings have been scheduled. Watch your mail for registration materials in April.

NHADA Fall Business Meeting & Golf Tournament – September 29 Manchester Country Club, Manchester, NH

This event will combine business with pleasure, and the Golf Tournament will benefit the New Hampshire Automotive Education Foundation. This will be an informative, fun day with a great cause.▲

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Wellness Corner

Lisa Duclos, Wellness Educator

In last month's article, reading the Nutrition Facts food label was introduced. How to calculate fat, protein, carbohydrate, and sugar content was reviewed as well as the importance of portion control. Since 1994, food manufacturers have been required by the Food and Drug Administration (FDA) to include food labels (or Nutrition Facts labels) on product packaging so that consumers have accurate nutritional information about the food they purchase. But food labels are more than just a federal requirement – once you understand the information they provide, you can use food labels as a guide to planning healthier meals and snacks. (www.lifeclinic.com)

The Lowdown on Food Labels (Part 2)

Common Mistakes to Avoid When Reading a Food Label

Until you become accustomed to reading food labels, it is easy to become confused. Avoid these common mistakes when reading labels:

• A label may say that the food is reduced fat or reduced sodium. That means that the amount of fat or sodium has been reduced by 25 percent from the original product. It does NOT mean, however, that the food is low in fat or sodium. For example, if a can of soup originally had 1,000 milligrams of sodium, the reduced sodium would still be a high-sodium product.

- Do not confuse the Percent Daily Value (% DV) for fat with the percentage of calories from fat. If the % DV is 15 percent, that does not mean that 15 percent of the calories comes from fat. Rather, it means that you are using up 15 percent of all the fat you need for a day with one serving (based on a standardized meal plan of 2,000 calories per day).
- Do not make the mistake of assuming that the amount of sugar on a label means that the sugar has been added. For example, milk naturally contains sugar, which is called lactose. But that does not mean you should stop drinking milk

Food Labels - Continued on page 9

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Food Labels - Continued from page 8

because milk is full of other important nutrients, including calcium. What you can do is look at the list of ingredients. If you see the words high-fructose corn syrup or sugar high on the list of ingredients, it probably means refined sugar has been added to the product.

- A common mistake people make, especially with packages dispensed from vending machines, is to assume that a small item contains one serving just because the package is small. If you eat a bag of pretzels from a vending machine, for example, you may find that it contains 2.5 servings. So you need to multiply the numbers by 2.5 to determine how many calories and the amount of sodium and other nutrients consumed if you eat the entire package.

Reading Label Lingo

In addition to requiring that packaged foods contain a Nutrition Facts label, the FDA also regulates the use of phrases and terms used on the product packaging. Here is a list of common phrases you may see on your food packaging and what they actually mean (www.americanheart.org, www.nhlbhsupport.com):

- *No fat or fat free:* Contains less than 0.5 gram of fat per serving
- *Lower or reduced fat:* Contains at least 25 percent less per serving than the reference food. (An example would be reduced fat cream cheese, which would have at least 25 percent less fat than original “high-test” cream cheese)
- *Low fat:* Contains less than 3 grams of fat per serving
- *Low in saturated fat:* 1 gram of saturated fat or less with not more

than 15 percent of the calories coming from saturated fat


- *Lite/Light:* At least 1/3 fewer calories or no more than 1/2 the fat of the regular product or no more than 1/2 the sodium of the regular product
- *Cholesterol free:* Less than 2 milligrams of cholesterol and 2 grams (or less) of saturated fat
- *Low cholesterol:* 20 or fewer milligrams of cholesterol and 2 grams (or less) of saturated fat
- *Reduced cholesterol:* At least 25 percent less cholesterol than the regular product and 2 grams (or less) of saturated fat
- *No calories or calorie free:* Contains less than 5 calories per serving
- *Low calories:* Contains 1/3 the calories of the original version or a similar product
- *Sugar free:* Contains less than 0.5 gram of sugar per serving
- *Reduced sugar:* At least 25 percent less sugar per serving than the reference food
- *No preservatives:* Contains no preservatives (chemical or natural)
- *No preservatives added:* Contains no added chemicals to preserve the product; some of these products may contain natural preservatives
- *Low sodium:* Contains less than 140 milligrams of sodium per serving
- *Very low sodium:* 35 milligrams or less of sodium per serving
- *No salt or salt free:* Contains less than 5 milligrams of sodium per serving and no sodium chloride in ingredients list
- *High fiber:* 5 grams or more per serving (foods making high-fiber claims must meet the definition for

low fat, or the level of total fat must appear next to the high-fiber claim)


- *Good source of fiber:* 2.5 grams to 4.9 grams of fiber per serving
- *More or added fiber:* Contains at least 2.5 grams more per serving than the reference food

With some nutrition-facts practice, you will be able to quickly scan a food label and learn how the food fits into your nutrition plan for the day as well as be able to choose healthier options when planning your meals.

If you would like additional information on reading food labels, feel free to contact me at 800-852-3372, ext. 308, or e-mail me at lduclos@nhada.com. I am also available for nutrition or other wellness-related presentations at your worksite.▲



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Routine Physical Drawing Announced!

Susan Manning, NHADA Account Producer

If you are a member of NHADA and your employees are insured under an NHADA/Anthem medical plan, you will qualify for this unique opportunity! NHADA's Services Board has found a way to encourage insured employees and their insured family members to remember to schedule their annual routine physicals. Each insured family member may submit proof of having had an annual routine exam so that he or she may be entered into a cash drawing, which will be held four times during the year. **Four names will be drawn at the end of each calendar quarter, and EACH of those people will receive a check for \$250!** Information on how to enter the

drawing will be included in the April billing for all of our medically insured group members.

Through the years, NHADA has periodically offered worksite screenings for blood pressure, cholesterol, and glucose. During those screenings, it was discovered that many insured employees had not scheduled a routine physical in years. As a result of our screenings, some of those who had high screening numbers made appointments for physicals. These people were treated for conditions and diseases that would otherwise have been undetected until they became much more serious in nature. This led NHADA to offer these drawings as a stimulus for obtaining annual routine

physicals, which are an important aid to the health of our insured employees and family members.

NHADA's focus on the health of our medically insured employees has led to a consistent record of lower medical group premiums than if our members obtained rates through Anthem directly plan for plan. That fact, combined with our wellness program and well-known excellent customer service, makes NHADA the "go-to" Association for medical insurance for all qualified NHADA members.

For further information, please feel free to contact me at 800-852-3372 or at smanning@nhada.com. ▲

Raffle Prize Winners Announced!

"Produce Power" Nutrition Challenge:

- \$100 Roxanne Ferrin, Seabrook Truck Center, Inc.
- \$100 Joe Bova, Gil's Jeep, Inc.
- \$ 50 Deb Della Selva (spouse), Gary Blake Saab
- \$ 50 Deborah LaCroix, Shaker Valley Auto & Tire Inc.
- \$ 25 Renee Ortolari, Cupples Car Company
- \$ 25 Linda Kacavas (spouse), 1400 Motors of Nashua, Inc.
- \$ 25 David Croft (spouse), Ed Reilly Subaru, Inc.
- \$ 25 Kim Judd, Rte. 125 R.V. and Marine, Inc.

"Twelve Days of Wellness" Holiday Challenge:

- \$100 Carolyn Phillips (spouse), Phillips Auto Sales, Inc.
- \$ 50 Clayton Soucie (spouse), New England Motor Car Co., Inc.
- \$ 25 Robert LaCroix, Shaker Valley Auto & Tire Inc.
- \$ 25 Henry (Jack) Patnode, Autex Mazda

Congratulations to our winners, and thanks to all who participated in these challenges! Watch for "REV IT UP: Heat 2" Fitness Challenge coming this spring!

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Drug and Alcohol Policies and Testing



Jennifer Shea Moeckel, Esquire

On February 22, 2008, I had the pleasure of presenting a seminar on reasonable suspicion drug and alcohol testing for NHADA members with Sally J. Garhart, MD, of Bedford Occupational and Acute Care. This article will provide a brief overview of some of the legal and practical issues discussed at the seminar.

Introduction

Some estimates report that there are more than 9 million members of the American workforce who are current users of illegal drugs and that more than 6 percent of full-time employees in the U.S. are heavy drinkers. Employees who abuse drugs and/or alcohol often have increased absences and associated costs and pose safety and health risks to themselves, co-workers, customers, and the general public.

To combat these problems, many employers implement written policies prohibiting drug and alcohol use; and some take the additional step of requiring drug and alcohol testing. In fact, certain employers are required by law to establish written drug policies and/or require drug testing. The Drug-Free Workplace Act of 1988 requires contractors and grantees of federal agencies to agree

to provide drug-free workplaces and to implement written policies. The Omnibus Transportation Employee Testing Act of 1991 requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. Many employers that are not subject to these laws implement drug and alcohol policies and testing voluntarily. This article will focus on these more general policies and will not address compliance with the detailed DOT requirements.

Overview of Drug and Alcohol Policies

At a minimum, a drug and alcohol policy should address the issues listed below, and there are many other provisions that can be added to tailor the policy to a specific workplace. Any employer implementing a drug and alcohol policy, and particularly one requiring testing, should consult with legal counsel before issuing the policy to employees:

- **Clear Description of Prohibited Behaviors:** The policy should put employees on clear notice of the employer's expectations and should plainly inform employees what types of behaviors will not be tolerated, such as the "use, possession, storage, manufacture, distribution, dispensation, transfer, or sale" of drugs. The policy should also make it clear that employees may not report to work or otherwise perform any work while under the influence of alcohol or drugs.
- **Reporting Requirements:** The policy should explain when an employee is required to report a situation to the employer and should provide a reporting procedure to be followed. Situations that an employer may want reported include any convictions of drug- or alcohol-related crimes and any reasonable suspicion of violations of the policy, including reasonable suspicion that an employee is under the influence.
- **Drug and Alcohol Testing:** The policy should explain when testing will be required (e.g., pre-employment, reasonable suspicion, post-accident, random, follow-up testing after rehabilitation, etc.). It should also inform employees that they will only be tested after giving written consent and can also require that employees consent to any requested or required test as a condition of continued employment. This section of the policy can also outline other requirements, such as that employees may not make any efforts to dilute or otherwise tamper with the test, testing process, or results. This section of the policy may also define what will be considered a positive test.
- **Consequences for Violating the Policy:** The consequences for violating the drug and alcohol policy and/or for testing positive should be clearly stated. Consequences may include disciplinary action up to and including termination of employment. The consequences outlined in the policy should be consistent with the employer's disciplinary policy as provided in a handbook or personnel policies.

Training

In addition to drafting the actual policy, an employer implementing a drug and/or alcohol testing policy will also want to educate itself on the process by associating with a testing facility and learning the different types of tests offered by the facility as well as the facility's procedures. If an employer implements reasonable suspicion testing (and/or implements a separate fitness for duty policy), supervisors and managers should be trained on how to identify an employee that is under the influence of drugs or alcohol or is otherwise not fit for duty. Supervisors should also understand the procedures to follow when they suspect that an employee is under the influence of drugs or alcohol.

Drug and Alcohol Testing – Legal Considerations

There are no New Hampshire laws specifically addressing alcohol and/or drug testing by private employers. However, employers with locations in other states should take care to review the laws of each state in which they operate as the statutes and case law in this area vary from state to state.

New Hampshire employers, in general, are free to test employees for alcohol and drug use and may refuse to hire or can choose to fire an employee for testing positive, refusing to take a test, or tampering with test results. However, employers must be careful when creating and implementing a drug and alcohol testing program, and it is strongly recommended that employers work with legal counsel and associate with a reputable testing facility that will be sensitive to employee privacy and other concerns.

As with any employment action, such as hiring and firing, an employer may not create a testing program and/or administer a program in a manner that discriminates against a protected class in violation of Title VII of the Civil Rights Act of 1964 and New Hampshire's Law Against Discrimination, such as only testing Hispanic males. *See* 42 U.S.C. § 2000e et seq.; RSA 354-A. To avoid claims of discrimination, all employees in the same or similar job category should be treated the same.

Although an individual with a history of drug abuse or alcoholism is protected against discrimination by the Americans with Disabilities Act ("ADA"), an individual who is currently engaging in the illegal use of drugs or reports to work under the influence of alcohol is specifically exempted from the protection of the ADA. *See* 42 U.S.C. § 12114(a). Further, drug and alcohol testing is not considered a "medical examination" under the ADA. Therefore, pre-employment screening tests for illegal drug use and other drug tests are permitted under the ADA.

Creating and Implementing an Alcohol and Drug Testing Program

Before mandating alcohol and drug testing, employers should consider legal issues as well as the following more practical considerations:

- *Who Will be Tested?* While it is permissible for a New Hampshire employer to mandate that all employees submit to alcohol and drug testing, such an

Drug and Alcohol Policies - Continued on page 14

Compliance Corner

Pre-placement Drug-Testing FAQs

Ryan Hale, NHADA WCT Loss Prevention Consultant

To date, the mandatory pre-placement drug-testing program has proven to be a success with our WCT members. It has been met with little resistance; and, if anything, we have received more questions than complaints.

Below is a list of some of the frequently asked questions received over the past couple of months:

Q. Who keeps/receives the results of a drug test?

A. The employer keeps/receives the results, not NHADA. The results must be kept in a separate medical file.

Q. What happens if an applicant tests positive?

A. Before the employer is notified of a positive test result, a predetermined Medical Review Officer (MRO) reviews the test results. The MRO then contacts the applicant to find out why there was a positive test result. For example: Did the applicant eat a poppy seed muffin? Is the applicant taking prescription medication? The MRO determines if the reason is valid or not. If it is a valid reason, the MRO may ask the applicant to retake the test. If the MRO determines it is a valid positive, the employer is then contacted. This process usually takes 24-48 hours. If the individual is not hired, all records obtained through the hiring process

Hiring - Continued on page 15



New Hampshire's *TIME Magazine Dealer of the Year Award* recipient John C. Lambert (seated) was recognized at the NADA Convention. (L-R) Farhad Fozounmayeh, Account Manager Los Angeles, *TIME Magazine*; Pete McNamara, NHADA President; and Jim Davis, Global Communications, Goodyear.

Drug and Alcohol Policies - Continued from page 13

expansive policy can be quite costly. An employer should determine which categories of employees will be required to take alcohol and drug tests. For example, only those in safety-sensitive positions, only those in workplace accidents, only those reasonably suspected of being under the influence? On the other hand, employers wanting a far-reaching testing program will often choose to implement random testing for some or all categories of employees.

• When Will Tests be Conducted?

An employer must decide when to require testing. Possibilities include:

1. *Pre-employment:* Testing required before an applicant can be hired or an employee can be transferred into a position.
2. *Upon reasonable suspicion or for cause:* Circumstances forming "reasonable suspicion" that an employee is under the influence may include: (a) information from a credible source that directly observed an employee using or possessing drugs and/or alcohol; (b) an employee's appearance, behavior, speech, statements, breath or body odors;

and/or (c) a pattern of abnormal conduct or erratic behavior suggestive of drug or alcohol use. The employer's policy may define what reasonable suspicion means in that particular workplace.

3. *Post-accident:* Testing required following an accident.

4. *Randomly:* Testing that is done at random and without prior notice. If random testing is implemented, each employee should have an equal chance of being selected during each selection period. To avoid any claims of targeting or bias, it is often recommended that the testing facility, not the employer, select the employees to be tested in any given testing period.

5. *Post-rehabilitation:* Testing that is done after a rehabilitation program.

• Who Will Conduct the Tests and Where Will Tests be Conducted?

In most instances, it is recommended that the employer contract with an off-site occupational health or similar drug/alcohol testing facility. It is further recommended that all test results be reviewed by a Medical Review Officer.

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Conclusion

There are many good reasons to implement clear written policies prohibiting drug and alcohol use and requiring testing. Because of the many legal and practical issues surrounding drug and alcohol testing, an employer implementing or updating a policy should work closely with its legal counsel and its drug and alcohol testing facility to achieve compliance and design procedures that will work well for the specific workplace.▲

(Jennifer Shea Moeckel is a shareholder in the law firm of Devine Millimet, a Silver Association Partner, where her practice is devoted exclusively to employer counseling and litigation involving employment matters. She also frequently lectures before employers and professional groups on labor and employment topics and conducts training on all aspects of the employer-employee relationship. She can be reached at 603-669-1000 or at jmoeckel@devinemillimet.com.)

Hiring - Continued from page 13

(application, test results, etc.) must be kept on file for up to one year. This goes for every application received.

Q. Can the applicant retake the test if the applicant fails the first time?

A. It is recommended the applicant doesn't get a second chance. The MRO is involved to ensure that the reasons given for a positive test result are valid.

Q. When can an applicant reapply for a position if the applicant has already failed a drug test?

A. It depends on what the employer has determined as a reasonable time frame. This should be identified in your policy.

Q. Why isn't Attachment J in the Hiring Guidelines binder [Universal Underwriters (now Zurich) MVR request form] customizable?

A. Attachment J was put into the binder as an example and can only be used if they are your "Property/Casualty" carrier. If not, Attachment I (Authorization for Release of Records) would better suit you in complying with the Fair Credit Reporting Act (FCRA).

Q. If a prospective employee is injured when going to or coming from a drug test, will it be covered by workers' compensation?

A. The conditional offer of employment has been made, but the contract of hire has not been finalized; therefore, the person is not an employee and is not covered.

Q. What are the ramifications of allowing a prospective employee to work before the drug test is completed and the results are received?

A. If the drug test does come back positive, you will have to go through the process of terminating the employee and starting the hiring process again. In addition, workers' compensation issues may arise if the employee is involved in a motor vehicle accident driving to or from the drug-testing facility. It is best to avoid these legal issues by allowing an employee to work only after the negative drug test is received.

Q. Do you need parental/guardian consent for a drug test when hiring a minor?

A. Yes you do! If hiring a minor, the parent/guardian must consent to the test; but results cannot be shared with the parents. It is also recommended to check with the collection facility to see if they have a separate consent form for the parent/guardian to sign. If not and they request your consent form, make sure a copy is made for your records as would be best practice in all cases.▲

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**In Memoriam
Michael Whalley**

It is with sadness we share with you the recent passing of NHADA member and House Minority Leader Michael Whalley.

In 1976, Mike and his brother, Steven, founded Hooksett Kawasaki. Their brother, Jim, later joined the family business, which quickly grew and became HK Powersports, with locations in Hooksett, Tilton, and Laconia.

Mike was elected to the New Hampshire Legislature in 1992 and served eight terms as a State Representative. He first represented Bow, followed by the Alton Bay region in 2002.

NHADA will remember Mike as a loyal member and a strong voice at the State House, and he will be missed on both fronts. Our thoughts and prayers go out to Mike's family and friends. Memorial donations may be made to: Children's Hospital at Dartmouth Foundation (CHAD), 1 Medical Center Drive, Lebanon, NH 03756.▲



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**2007-08 Unemployment Rates
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	Nov	Dec	Jan
United States	4.5%	4.8%	5.4%
New England	4.2%	4.3%	5.3%
Connecticut	4.8%	4.5%	5.3%
Maine	4.8%	5.0%	5.9%
Massachusetts	3.9%	4.1%	5.2%
New Hampshire	3.2%	3.3%	4.0%
Rhode Island	4.7%	5.2%	7.0%
Vermont	3.7%	3.7%	5.0%



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Environmental Corner

Dan Bennett, NHADA Environmental Specialist

There are many reasons why changing out your parts washing unit makes sense, whether you are trying to “Go Green” or not.

Hazardous waste generating parts washing units create a liability that many shops can do without. As is the case with any hazardous waste, there are the myriad of rules, programs, and fees with which you must comply. There is also potential liability as the generator (or maker) of the waste that if there is an accident on the road or at the waste storage site, you are responsible. That is the “Cradle to Grave” component that I am sure you have all heard about. By going non-hazardous or “Green,” you can escape most all of the above.

With parts washers, the first and most important question, and also the easiest, most cost-beneficial, and environmentally friendly option is: Do you need one? Could you get all your operations done without one? Is one even being used now? Plenty of shops get by without any washer at all. The unfortunate truth is that many parts washers sit in a service shop dormant and rarely used. Often they are used as a storage bench with the lid folded down. I would advise you to take a good look at the unit and ask the service manager and your technicians to determine whether or not that washer really is a necessary piece of shop equipment. It may be beneficial to monitor and track its usage for a period of time. The greenest option really would be not

needing or having the chemical inside the washer in use at all. This step will significantly cut your costs, lower the liability of waste generation, and provide a significant environmental benefit.

If it is proven that a parts washer is a necessary piece of shop equipment, then you should consider one of the more environmentally friendly lower-liability-producing parts washing units.

NHADA has a number of resources for these units. NHADA Association Partner, Environmental Equipment of New England (See March *Dateline: Meet Your Association Partner*, page 20) has a variety of parts washing units that can fit this need and provide you non-hazardous parts washing options. There are also two Association members that have these units as well: Clean Harbors and Advanced Liquid Recycling (now owned by Safety-Kleen).

For non-hazardous parts washers, there are three main types:

- **Non-hazardous solvent based:** just like a traditional drum and basin type washer. The only difference is that the solvent, still a mineral spirits/petroleum naphtha-based solvent, has a high flashpoint making it non-hazardous (when it enters the shop).
- **Non-hazardous aqueous based:** these units may look like a traditional parts washer or more like a plastic portable unit. They commonly use a filter, hot water, and a cleaning chemical, such as a citrus-type soap.

They may, just like a traditional unit, have a basin and a brush for scrubbing.

- **Cabinet washers:** this type of unit is usually a large stand-up piece of equipment that operates much like a dishwasher. Once a part is placed in the cabinet and the door is latched, a timed wash cycle cleans the part. The solution used is hot water (about 180 degrees) and a mild soap. These units have a skimmer that separates and removes the oil and chemical waste from the wash water solution and stores it in a separate reservoir.

An essential component that hopefully you are all familiar with is the testing requirements that go along with using a non-hazardous parts washer. Although the cleaning solution starts off as non-hazardous, after a few weeks of what may be some potentially very dirty cleaning jobs, some hazardous contamination may occur. It is your responsibility, as the generator of the waste, to test the waste at the end of its life, before disposal or recycling, to prove that it is non-hazardous.

The waste is generally tested for its flashpoint, the presence of the BTEX chemicals, and a TCLP test for the RCRA 8 metals. As long as your process does not change, the State will allow you to do a one-time representative sample test; this keeps your costs down.

You can ask your hauler or vendor to perform the test (and, hopefully, in

Parts Washers - Continued on page 20

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Deborah Handrahan Joins NHADA

Pete Sheffer, Director of NHADA WCT




NHADA welcomes Deborah Handrahan to our NHADA Workers' Compensation Trust staff. Deborah replaces Claims Adjuster/Representative Justin Hickman who has departed NHADA. We all wish Justin well with his new endeavor, and he will be missed.

We are very fortunate to have found Deborah Handrahan, who comes to NHADA with ten years of experience as a workers' compensation adjuster with a New Hampshire-based self-insured workers' compensation trust. Deborah will be on the road investigating claims, so please welcome her when she is in your store.▲

Safety/OBD II Inspections Statistics				
Safety Inspection Results	Feb 08	% of Total	YTD 08	% of Total
Total *	98,936	100.00%	206,737	100.00%
Passed	76,282	77.10%	158,902	76.90%
Corrected	13,647	13.80%	28,869	14.00%
Rejected	5,084	5.10%	10,532	5.10%
Untested	3,923	4.00%	8,434	4.10%
OBD II Inspection Results <i>(1996 and newer)</i>				
Total	85,742	100.00%	177,899	100.00%
Passed	76,249	88.90%	157,832	88.70%
Rejected	6,640	7.70%	14,183	8.00%
Untested	2,853	3.30%	5,884	3.30%
* Total numbers include OBD II Inspections				
<i>Statistics provided by Gordon-Darby</i>				

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That way we can track, as an industry and our Association, the cumulative benefit to energy reduction and carbon emission reductions that we have achieved!

Parts Washers - Continued from page 18

some cases, cover the costs as part of the service), or NHADA can provide you with a variety of independent testing labs to do the analysis.

I urge you to take this opportunity to look at your parts washing operations and take advantage of this low-hanging fruit of "going green," lowering costs, and lessening your liability. This opportunity truly is a win-win!

If you would like assistance with this issue or have questions on this or any other environmental-related matter, please feel free to contact me at 800-852-3372 or at dbennett@nhada.com.▲



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From Your NADA Director

Jack Tulley



NADA Update

In legislative and regulatory news...

President Bush signed an economic stimulus package (H.R. 5140) on February 13, including the following provisions that are expected to put more money in the hands of small-business owners, allowing them to expand and buy new equipment:

- **Enhanced Small Business Expensing under Section 179** – Doubles the amount small businesses can immediately write off their taxes for qualified expenditures in 2008 from \$128,000 to \$250,000 for purchases of new equipment of up to \$800,000 (increased from \$500,000). (However, certain SUVs that are rated at 14,000 pounds gross vehicle weight or less are still limited to the \$25,000 Section 179 limitation.)
- **Accelerated Bonus Depreciation** – Provides for immediate tax relief for businesses to invest in new machinery and equipment, including vehicles, by accelerating depreciation schedules, through an additional 50 percent bonus depreciation of new qualifying property purchased in 2008.
- **Direct Consumer Stimulus** – Provides one-time rebates of up to \$600 for individual taxpayers earning \$75,000 or less, or \$1,200 for couples earning \$150,000 or less, with \$300 for each child. Additionally, retirees on Social Security, low-income workers, or disabled veterans would receive \$300 checks. These rebates could be in the mail as early as May.

NADA will continue with legislative updates on the stimulus package and on a possible second tax package with energy credits as the issues continue to develop.

The National Highway Traffic Safety Administration (NHTSA) is aiming to boost new-tire registrations by providing electronic means of doing so. Since 1970, the law has deemed franchised automobile dealers to be independent tire dealers when they sell new replacement tires on new vehicles, new tires on used vehicles, and new tires to service customers. As such, they must provide partially filled-out registration cards to new-tire buyers, who, in turn, may complete and return them to the tire manufacturer. This is intended to facilitate recalls of tires later determined to be defective or noncompliant. Consistent with NADA's suggestion, NHTSA has proposed to loosen the regulations to allow customers to complete tire registrations on-line or by fax. Also, dealers may complete the registration electronically after first obtaining a customer's permission.

As always, if you have any questions or concerns, please feel free to contact me at 888-0550 or at jack@tulley.com.▲



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Ken Plante, DEAC State Chairman

What is DEAC and Why is it Such a Great Deal?



Jack Tulley, NADA Director

DEAC, which stands for the Dealers Election Action Committee, is the federal political action committee that is administered by NADA. DEAC was established in 1975 and is the only non-profit political action committee representing franchised dealers of both imported and domestic new cars and trucks.

DEAC is NHADA's source of funds to support pro-dealer and pro-business candidates for the U.S. Senate and the U.S. Congress, and DEAC works to ensure that the voice of NADA is well represented on Capitol Hill. DEAC is one of the top-five PACs in the nation in terms of its support of congressional candidates and, thus, gives all dealers a good bit of recognition from members of Congress.

In addition, DEAC has always been a great financial deal for New Hampshire. Because of the high level of participation from NHADA members in the past, New Hampshire has consistently received more money in contributions to candidates than we actually put into DEAC.

To continue this tradition, we need your assistance. In preparation for our June 17 DEAC Phon-A-Thon and to comply with federal election law, NHADA members must have on file with NADA a signed "Five Year Federal Compliance Form" in order for NHADA to conduct solicitations for DEAC. If your dealership does not have this form on file, you will receive a form in the mail in the near future. Signing the form does not obligate you or anyone else at your dealership to make a future donation but simply enables DEAC to add your dealership to their mailing list.

When one of our DEAC Phon-A-Thon dealer volunteers gives you a call in June, please be prepared to support your federal PAC with your personal donation. Your financial assistance will go a long way toward helping us elect dealer friendly candidates in Washington.▲

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New Hampshire Department of Safety, Division of Motor Vehicles

Title Statistics Report Month Ending: 2/29/08

	February	08 YTD	07 YTD
Titles Issued for New and Demo Vehicles:	6,726	14,980	16,479
Titles Issued for Used Vehicles:	15,320	31,995	36,589
TOTAL TITLES ISSUED:	22,046	46,975	53,068
Titles Issued with a Lien:	9,863	20,686	22,647
Titles Issued with no Lien:	12,183	26,289	30,421
Salvage Titles Issued:	947	1,826	1,450
Salvage Tags Issued:	172	303	367
Titles Issued for Heavy Trucks More than 15 Years Old:	23	47	68
Titles Issued for Heavy Trucks 15 Years Old or Less:	113	241	311
Titles Issued for Trailers:	413	814	1,019
Titles Issued for Motorcycles:	467	832	952
Titles Issued for Motor Homes:	44	75	96