News From the NADA 2009 Conference

Peter J. McNamara, President

Your NHADA leadership attended NADA’s 2009 Washington DC Conference on September 15 & 16. NHADA Chairman Jay Alosa, NADA Director Jack Tulley, DEAC State Chair and NHADA Director Andy Crews and his wife, Melissa, NHADA Director and AIAADA Director Peggy Proko, NHADA President Pete McNamara and NHADA Vice President of Governmental Affairs Dan Bennett attended the two-day event, which involved a number of education conferences as well as dashing about the halls of Congress to meet with our congressional delegation and/or their staff.

The purpose of this visit was multi-fold: to strengthen our ties to New Hampshire’s federal delegation in Washington and thank them for what they’ve done to help our members, or point out where things went awry; and turn their attention to critical bills or issues on our radar.

It is difficult to sit down with

DEAC Phonation A Success

Peter J. McNamara, President

On September 8, your Dealers Election Action Committee (DEAC) leadership team held its annual phonation to financially rearm our federal political action fund war chest. NADA Director Jack Tulley, DEAC State Chairman H. Andy Crews and NHADA Chairman Jay Alosa called fellow franchised car and truck dealers seeking financial donations to this critical fund. The final team member, NHADA President Pete McNamara helped to coordinate the action.

The DEAC team received pledges that totaled over $12,950! This brings the 2009 total to an estimated $23,320. Our newest President’s Club member, Jay Alosa, joins these other dealers who have renewed or pledged to renew their President’s Club membership: Frank Brady, H. Andy Crews, Robert Grappone, Richard Lovering, and Jack Tulley.

DEAC provides financial support to the election campaigns of pro-business candidates to the United States House and Senate who understand our concerns as auto industry professionals. Next year we will have a highly contested open Senate seat with Senator Judd Gregg retiring and an open House seat with Representative Paul Hodes attempting to win the Senate seat. Finally, of course, Representative Carol Shea-Porter will need to run again.
In Memoriam – Joseph C. “Todd” Walier IV

It is with deep sadness that we inform you of the passing of Joseph C. “Todd” Walier IV on Monday evening, September 14, in Keene.

Todd, 44, was General Manager of Walier Chevrolet in Keene. His father is Joseph C. “Joe” Walier III, owner of Walier Chevrolet and past NHADA Director and former Chair of the NHADA Board of Directors from 1984 to 1985.

Todd is survived by his wife Cindy P. Walier, a daughter, Chloe S. Walier and a son, Joseph C. ”Tag” Walier V, all of Langdon; his parents, Joe and Judith Walier of Keene; a sister, Jill W. Perkins and her husband Peter of Lakeville, MA and his brother, J. Chad Walier and his wife Lauren of Keene; two nieces and three nephews.

In lieu of flowers contributions may be made in Todd’s name to the Walier Children’s Memorial Fund, c/o Savings Bank of Walpole, PO Box 744, Keene, NH 03431.

Welcome New Members

J.W. Fleet & Equipment Inc.
621 Route 3A
Bow, NH 03304
224-1145
Owner: Joseph W. Grigas

Key Collision Center of Portsmouth
2-4 Mirona Road
Portsmouth, NH 03801
436-5010
Owner: Anthony DiLorenzo

YD Auto Sales, LLC
1176 Hooksett Road
Hooksett, NH 03106
858-6000
Owner: Jon M. Gross

DealerTrack Inc.
106 Sodom Trail
Exeter, RI 02822
401-536-5232
Contact: Carl Bowen

Wachovia Dealer Services
1500 West Park Drive
Westborough, MA 01581
508-599-1020
Contacts: Christopher Peck and Karen Pedi

Save the Dates!

October 14  PowerSports – All Motorcycle, Snowmobile, & OHRV Dealers

October 15  Hazardous Materials
Three-Year Certification Training
– Ground and Air

November 17  NHADA Fall Business Meeting & Partner Expo
The Post–Clunker Outlook: Better Economy But Less Inventory Available to Sell

By Paul Taylor, NADA Chief Economist

The August durable goods orders report reflects the impact of “Clunker” deals on manufacturing orders beyond new car dealers’ major contribution to the retail sales report for August. This stimulus effort obtained immediate traction for the nation’s economy.

The Economic Data Point to Faster Growth

July durable goods orders point to third-quarter economic growth, and reflect a large 107 percent increase in non-defense airplane orders in July and a very modest 1 percent increase in motor vehicle durable orders. Slow arrival of the cash for the Clunkers taken in on new car deals will distribute the impact of additional dealer new vehicle orders over the August, September, and October durable orders reports. But we should not be shy about our industry’s major contribution as one of very few immediate-impact stimulus efforts. New car dealers sold cars at a rapid pace in July and August with the stipend for Clunker trade-ins. A lot of shovel-ready projects have yet to even break ground.

Other economic data are generally good, with surprises on the up side. For September, we expect new light vehicle sales to retreat to 11 million units at an annualized rate, a rate above the 9.9 million unit pace previous to the “Cash for Clunkers” program.

The improvement in durable orders suggests to us that third-quarter GDP growth will be somewhat above 3 percent; about 3.2 percent. This welcome start of economic growth is not as strong as the rebound you would see if there was the typical pent up demand for housing coming out of a recession. Most recessions are a result of previous high interest rates causing the recession. The current recession reflects too much credit available in the past at too low an interest rate, and too many houses owned by people that cannot afford them. Pent up housing demand comes from too little credit available at a prohibitive interest rate in the past.

House price declines are stabilizing during the third quarter in most states. California, Nevada, and Arizona still have too much housing inventory, so housing prices will continue to fall there, also hurting the housing market in Utah, Oregon and Hawaii. Florida still has residential real estate correction ahead. The rest of the country is bottoming out in the real

Outlook - continued on page 6
Chrysler Financial Revises Its New “Reserve Account” Payment Policy

When Chrysler Financial (CF) exited the floorplan market, many Chrysler dealers had to find a new floorplan finance source. At the same time, CF sent Chrysler dealers (including those not floored with CF) demands for sizable payments to fund a “reserve account” to cover certain contingent chargeback obligations related to outstanding retail paper purchased by CF. Unless dealers made these payments, CF refused to terminate the Uniform Commercial Code (UCC) financing statements. Chrysler dealers had numerous concerns about these payments, but in many cases, felt constrained to pay them as they generally could not obtain alternate floorplan financing without the release of the UCC liens.

After receiving dealer complaints about the policy, NADA Regulatory Affairs carefully analyzed the relevant documents and identified several legal concerns relating to the payment demand and the basis for the payment calculation. NADA outlined these concerns in a detailed, strongly worded letter to CF and in communications to the Presidential Auto Task Force.

While continuing to defend the legal sufficiency of its reserve account payment policy, CF responded by announcing a major policy change that took effect immediately. In short, Chrysler dealers now have two options: (1) they can still make a one-time (substantially lower) payment to settle all such contingent liabilities, or (2) they can continue to pay the chargeback liabilities on a monthly “pay-as-you-go” basis. Importantly, CF has confirmed that, under either option, CF will terminate the UCC filings upon payment of the dealer’s outstanding loans with CF. Dealers who had already paid under the original program will be able to make the same choice and obtain any refund in the difference of the amount due.

NADA would like to acknowledge NADA Director and Chrysler Industry Relations Chairman Chuck Eddy, several other dealers, and ATAEs for their input and assistance with this issue. NADA has communicated the policy revision to Chrysler dealers.

Dealers Urged to Take Care When Texting

With the use of texting soaring, the popularity of this communication tool may invite scrutiny from regulators. So, before texting, dealers need to consider the applicable federal regulations.

A text message could be deemed a phone call, an e-mail, or both under federal law. The Federal Communications Commission (FCC) considers texts to be phone calls under the Telephone Consumer Protection Act. That means you can’t send a text “solicitation” to a phone number on your company-specific “do not call” (DNC) list or to one on the national DNC list (subject to the “established business relationship” and other exceptions).

Also, you can’t send any text to a cell phone number when using an “automated dialer system” — regardless of the nature or whether it’s on a DNC list — unless you have the person’s “prior express consent.” That means any messages sent via computer — even if service reminders or communications with current customers — are prohibited unless dealers have the recipient’s consent.

Likewise, a text sent as e-mail — sent to an Internet domain with the “@” symbol — is subject to CAN-SPAM rules, which prohibit the sending of any commercial e-mail messages to wireless devices unless dealers have “express prior authorization.” In some cases, text messages fall into both categories and are subject to both sets of regulations. For more on how to comply, visit www.nada.org/regulations.

In other legislative and regulatory news...

CARS Doesn’t Specify Tax Treatment of “Clunkers,” But IRS Weighs In

Many dealers have asked how they should treat “Clunkers” credits. In a recent automotive alert, the IRS states that under CARS, the credit is not taxable as income to the car buyer. The law does not address the taxability of the credit to dealers or the deductibility of any expenses incurred by participating dealerships.

In general, credits are part of dealers’ gross receipts and counted as income in the year the vehicle is sold. Dealerships are allowed to offset gross income by the cost of goods sold. The IRS urges dealers to maintain proper records of CARS-related transactions, including any expenses incurred. For more info, visit www.nada.org/regulations.
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*Large premium class. (1) Based on automotive awards won within the introductory model year (2005). (2) ACC is a driver convenience system, not a substitute for active driver involvement. The driver must remain aware of traffic conditions and be prepared to use brakes to avoid collisions. (3) Available. Chrysler is a registered trademark of Chrysler LLC.
Let New-Car Buyers Know About The Sales-Tax Deduction

The IRS is urging dealers to post flyers about the sales and excise tax deduction, pushed for by dealers and included in the American Recovery and Reinvestment Act (ARRA) earlier this year. The agency suggests posting flyers in high-customer-traffic areas of their stores. The deduction applies to sales and excise taxes on the purchase of new vehicles bought through December 31, 2009; buyers will be able to deduct these on their 2009 returns. New-vehicle buyers in states that lack sales taxes have other means of obtaining the deduction. For more information and to download a copy of the flyer, go to www.nada.org/legislativeaffairs/tax/auto-sales-tax-deduction/StimulusLaw.htm.

In NADA news...

Dealer Academy Offers First Parts Managers Course

From September 21–25, NADA Dealer Academy will offer its first-ever course on parts management. Dealer Academy veteran and parts lead instructor Chris Bavis says the course will teach managers how to manipulate the dealership’s parts inventory to its maximum potential. It will also guide students in the review and interpretation of critical financial statement data. One day will be devoted to a deep dive into students’ DMS parts inventories, and a comprehensive “scorecard” will actually grade the performance of the inventories. Bavis and fellow instructors Dave Summers and Jim Phillips are former retail parts managers. For registration and program information, call 800-252-6232, option 2, or e-mail seminars@nada.org.

New NADA/ATD 20 Group e-Composites Continue Rolling Out

New NADA 20 Group e-composites for VW, Subaru, Hyundai, and GM were launched in August. These are pulled directly from the OEM financial statements and deliver the numbers dealers need along with more than 80 reports and customized comparisons. Dealers using the new composites – including those with Mazda, Peterbilt, and BMW – report that they are helpful in making projections and decisions to increase profitability. New composites for all makes will be rolled out by year end. Check out the new composite at www.nada20group.org/elearning. To obtain more information, e-mail nada20group@nada.org. For the scheduled rollout of your franchise make, call 800-252-6232, option 3.

NADA Membership Proves More Valuable than Ever

Recent events in the automotive industry – the bankruptcies, CARS, credit-crisis, challenges to state franchise law, and more – illustrate more than ever the importance of NADA’s proactive engagement in forcefully communicating dealer views and concerns to all branches of the federal government, to manufacturers, and to the public. This core mission of NADA is being proven out minute-by-minute in today’s volatile industry. NADA’s effectiveness in protecting and enhancing the franchise system starts with you – the dealer. Your decision to be a member of NADA not only adds strength to your voice, but also returns valuable benefits beyond the representation. To learn more about the value proposition you cannot afford to be without, contact the Membership Department at 703-821-7113 or visit www.nada.org/membership.
latter reflecting the foreclosure impact, a necessary process.

Further evidence of the recovery of the housing market was contained in the Federal Housing Finance Administration (old OFHEO) House Price Index for the second quarter. It showed all but about 15 states at or near a bottom of house price declines during that time. We expect stable prices in 35 states during the third quarter of 2009, along with resumed GDP growth.

There appears to be a little bit of “selling on the news” of the recovering economy by Wall Street. After a five-month run up in stock prices, the markets are searching for a new catalyst for share-price growth. One contributor to growth could be the large amount of money on the sidelines in low-yielding money market funds.

The economic growth that is currently underway during the third quarter, when it becomes evident to the typical consumer on Main Street will add support to the stock market and allow it to move higher from the current range, fed by the large amount of investment-ready cash.

What Do We Have To Sell After Clunker Deals?

“Cash for Clunkers” took out many larger small cars, hybrid vehicles, mid-sized CUVs and four-cylinder, mid-sized sedans. So sales of smaller small cars, non-mid-sized CUVs, and anything left with a V-6 or V-8 engine were a greater part of the spare inventory left in new car dealerships as September began. SUVs are in short supply in the U.S. mid-section.

Inventory was tight at the beginning of August, just before the second phase ($2 billion) of Cash for Clunkers program sold 700,000 new light vehicle units out of the light vehicles inventory of franchised new car dealers.

New car sales will moderate in post-Clunker September, but the good news is that many high-mileage trades will go to auction where payment is much quicker.

The Cash for Clunkers program provided about 250,000 additional new vehicle sales in July, and nearly 500,000 additional new sales in August. While some of these sales will be offset by fewer new car sales in future years, NADA estimates that a considerable number of sales are made to customers who would not have purchased during 2009. For some dealers, these two months will be the ones that helped move the dealership through the recession, despite slow payments from Washington.

What will sell in future months? What do we have? Mid-sized crossovers were in very tight supply, at 36 days supply, as were larger and more expensive small cars. The smallest and most economical subgroup of small cars started the second round of Clunker trades at a healthy 57 days supply (71,156 units of inventory on the ground). Households of modest means had a wide selection of the most economical small cars. The smallest, small cars sold down to a 27-day supply last summer when regular gasoline peaked at $4.11 per gallon.

The heart of small-car sales, the larger, the more expensive upper, small-car subset had inventory of 290,337 units, a 40-day supply, as August sales started. Crossover Utility Vehicles from BMW, Chevrolet, Chrysler Group, Ford, Honda, Mazda, Mercedes, Nissan, Subaru, Toyota, and Volkswagen were most of the production that contributed to double-digit sales increases for this category of new vehicles for the eight years, 1999-2007. And they sold strongly as a response to the Clunker trade in stipends.

NHADA Power Sports Meeting

Attention all Motorcycle, Snowmobile, & OHV dealers

NHADA will be hosting its next Power Sports Dealers meeting on October 14 at 3 p.m. A legislative summary and regulatory issues will be discussed, as will a variety of other topics.

Guest speakers in attendance will be Major Tim Acerno of the NH Fish and Game Law Enforcement Division, and Department and Bureau Chief Chris Gamache of NH DRED’s Trail Bureau.

The meeting will be held at NHADA Headquarters, the Daniel B. McLeod Center, on Wednesday October 14 from 3-6 p.m.

Please RSVP your attendance by calling Dan Bennett at 800-852-3372 or by e-mail at dbennett@nhada.com.
each of our elected officials because of the busy congressional committee and voting calendar. We had a great meeting with Senator Jeanne Shaheen, who has been very in tune with dealer concerns in the short time she has been our junior Senator. We were able to meet briefly with Rep. Carol Shea-Porter outside the Capitol and will sit down with her again. We also met with staff members of Rep. Paul Hodes and Shea-Porter, Senator Shaheen, and Senator Judd Gregg.

We focused on several issues during our meetings, including:

- Creating certainty with the estate tax. The changes made in 2001 that gradually lowered the rate and raised the exemption will sunset in 2010 resulting in the old 55 percent rate and limited $1 million exemption. Naturally, a complete repeal would be the best solution, but that is very unlikely. In lieu, NADA has been pushing for a lower rate (35 percent) and higher per-spouse exemptions ($5 million each).
- Supporting a transitional relief package to provide relief to GM and Chrysler dealers targeted under bankruptcy from adverse tax consequences or product liability that is triggered by the restructuring. This will need to be a part of a larger tax bill. We also pushed against the proposal to repeal LIFO (Last In, First Out) altogether.
- Exempting dealers from (or outright kill) HR 3126, which creates the “Consumer Financial Protection Agency.” In our opinion, this new agency would have incredibly broad powers to regulate all financing including the type with which dealers are involved. Our contention is that auto financing is already heavily regulated and free of the fraud that coated the risky mortgages you read about over the past year. In other words, auto financing ain’t broke, so don’t “fix” it. Rep. Hodes sits on the House Committee on Financial Services, which will consider the bill. He could be a critical ally for dealers in modifying this adverse language.
- Creating one national fuel economy standard and heavy duty truck fuel economy regulation. Our position is that the industry supports efficient vehicles but the federal fuel economy standard needs to be administered by one agency under one rule. The current climate change bill (H.R. 2454) repeals the Corporate Average Fuel Economy (CAFE) standards for heavy duty trucks and transfers the program to the Environmental Protection Agency. Chairman Alosa made the points that the heavy duty truck industry has been repeatedly burdened with increasing fuel efficiency requirements and technologies and that the industry needs some consistency.
Energy Star Small Business Award Winner John Lambert Honored Again!

John Lambert, NHAEF Director, owner of Lambert Auto Sales in Claremont, was recently recognized for and asked to tell the story about his 2008 Energy Star Small Business award (one of only ten nationwide) and serve as a panelist for a discussion on the proposed national energy and climate change plan at an event in Washington DC.

The event was held in our nation's capital on September 16, 2009 at the Capital Hill Visitors Center and was sponsored by the Environmental Defense Fund and the British Embassy in Washington.

John was asked to participate to highlight some of the energy efficiency projects and steps that have been taken at his dealership and how they apply to other small businesses in the face of the government considering new climate change legislation that some believe will raise energy costs to businesses. John got to spread his message that “energy efficiency always makes sense for both the bottom line and the environment”

Congratulations to John and all those at this store for their hard work and commitment to energy efficiency and environmental protection!
Mark Toussaint and Paul Lentine

LED (light emitting diode) lighting is rapidly gaining popularity in commercial applications. Manufacturers are racing to produce and market parking lot lighting, recessed can replacements, refrigerated case lighting, cove lighting, and screw-in lamp replacements for customers hungry for a new way to illuminate their spaces.

LEDs offer a number of attractive benefits to users, and could very well replace fluorescent lighting as the next generation of lighting technology. The industry is still fairly new, though, and potential buyers should do their homework before making large investments in LED technology.

Benefits of LED Lighting

The attraction to LED lighting is understandable; LEDs can offer a quality, light source that is dimmable and uses a fraction of the energy of incandescent sources. As an example, many recessed cans include an incandescent light in the 60 watt range. An LED with similar light output consumes a mere 12 watts. This reduction in power consumption can add up to significant savings on your electric bill.

LEDs also offer compelling maintenance advantages. They are typically rated to last around 50,000 hours – that’s more than five years if they are on all the time, and longer if they get shut off periodically. In comparison, many fluorescents are rated at 10,000 hours. This means that for every light in your facility that you convert to LED, you could save four fluorescent lamps, and four trips up the ladder to change them. The difference is even greater with incandescent lights, which are often rated to last only 1,000 hours.

Another benefit of LED lighting is their construction; they contain no glass, which is a safety advantage. Because they work differently than fluorescent lights, there is no need for mercury in LEDs. They can be easily discarded or recycled when they fail.

Drawbacks

The major drawback to using LEDs is the initial cost of the fixtures. Chances are, you have lived with and used LEDs for years. The indicator lights on your electronic devices are LEDs, and clusters of the diodes make up most modern traffic lights. These LEDs are usually colored red or green, which are inexpensive to manufacture. They typically provide contrast against a background instead of illuminating space. In order to cast useful light into a space, manufacturers have to create white LEDs, which are difficult and expensive to manufacture, and they need to include more diodes per fixture.

While LEDs produce very little heat, they are very sensitive to heat buildup. Because of this, LED fixtures must be able to move heat away from the diodes – usually in the form of a heat sink that is integrated into the fixture. If this is done ineffectively, the excess heat can reduce lamp lifetime and overall performance.

Another noteworthy item is that LEDs don’t die out completely. Assuming they are in a properly designed fixture, their light just fades over time. The industry and organizations are developing a procedure for estimating the expected life of an LED. Currently for commercial and outdoor lighting the LM-80 test of the LED array or module states that if the LED maintains a minimum lumen maintenance of 94.1 percent at 6,000 hours, manufacturers can state a rated life of 35,000 hours.

Buyer Beware

It can be difficult to know what you’re getting when buying LED products. Standards and testing are being developed, but so far have not kept pace with the aggressive marketing of LED lightings. The Department of Energy’s CALIPER Program (Commercial Available LED Product Evaluation and Reporting program) purchases off-the-shelf LED lighting products and tests them against manufacturers’ claims. The results of early tests were discouraging – manufacturers’ claims often varied widely from what the DOE found in its tests. As the technology matures and testing is developed for more types of fixtures, this situation is improv-
The Parts Manager’s Daily Responsibilities

For maximum efficiency, a parts manager should follow a routine including daily, weekly, monthly, and even annual tasks. The following are suggested daily responsibilities:

(1½ hours)
- Open the parts department. Establish a counter person for service. Open shop counter in conjunction with service advisors. Turn on computer(s). Check security. Start perpetual inventory counts.
- Check arriving personnel to open parts counters, set deliveries, check in stock and enter into inventory. File appropriate paperwork, including updating MSDS binder. Check with service department and body shop to give any updates on vehicles carried over, which are waiting for parts.

(1 hour)
- Complete reports for shortages, overages, errors, and transportation claims; match invoices to packing slips.
- Enter daily orders and spot check parts and invoices in delivery trucks.
- Justify cash receipts against the driver’s log.

(2 hours)
- Update bin locations, parts numbers and inventory counts. Correct any bin count irregularities and post the variances.
- Review lost sales and emergency purchases.
- Review special-order bins for aging and customer notification.

(1 hour)
- Check with service department and body shop to give any updates on vehicles carried over waiting for parts.
- Review purchases from aftermarket vendors in purchase order book.

For in-depth training on improving your parts inventory performance, visit www.nada.org/seminars to register for NADA Dealer Academy’s new 4½-day parts managers course (Sept. 21–25 in McLean, VA).

LEDs are exciting new technology that will revolutionize the lighting industry. They eventually will become common in your workplace and home. Until then, there are some guidelines you should follow prior to investing in LED technology:

• Explore using LED products for use in areas with long-run hours.
• Do your research. Look for Energy Star-approved products, or ask the manufacturer to provide testing data. Your electric utility can review these data with you if needed.
• Pay attention to the warranty period. LEDs are a significant investment, and should be protected by a reasonable warranty.
• Compare total cost vs. other technologies, such as fluorescent light sources. You should consider purchase price, energy consumption, maintenance, and utility rebates to get an accurate picture of the total cost of converting to LEDs.
• Always verify with your utility any rebate offered by a vendor prior to any commitment to LED lighting.

Utility assistance
Your electric utility can provide valuable assistance in choosing the lighting product that is right for your facility. They can calculate energy savings for you, review lighting plans and product selection, and advise you on any available rebates for the technology you are considering. Visit www.nh Saves.com to locate your utility’s energy efficiency program.

The authors, Mark Toussaint and Paul Lentine, help administer Public Service of New Hampshire’s energy efficiency programs for businesses.
New Rule Prohibiting Unwanted “Robocalls” In Effect
Telemarketers Must Obtain Prior Written Approval from Consumers Who Want to Receive Such Calls

Beginning on September 1, pre-recorded commercial telemarketing calls to consumers – commonly known as robocalls – are prohibited, unless the telemarketer has obtained permission in writing from consumers who want to receive such calls, the Federal Trade Commission has announced.

“American consumers have made it crystal clear that few things annoy them more than the billions of commercial telemarketing robocalls they receive every year,” said Jon Leibowitz, Chairman of the FTC. “Starting September 1, this bombardment of prerecorded pitches, senseless solicitations, and malicious marketing will be illegal. If consumers think they’re being harassed by robocallers, they need to let us know, and we will go after them.”

The new requirement is part of amendments to the agency’s Telemarketing Sales Rule (TSR) that were announced a year ago. Sellers and telemarketers who transmit prerecorded messages to consumers who have not agreed in writing to accept such messages will face penalties of up to $16,000 per call.

The rule amendments do not prohibit calls that deliver purely “informational” recorded messages – those that notify recipients, for example, that their flight has been cancelled, an appliance they ordered will be delivered at a certain time, or that their child’s school opening is delayed. Such calls are not covered by the TSR, as long as they do not attempt to interest consumers in the sale of any goods or services. For the same reason, the rule amendments also do not apply to calls concerning collection of debts where the calls do not seek to promote the sale of any goods or services.

In addition, calls not covered by the TSR – including those from politicians, banks, telephone carriers, and most charitable organizations – are not covered by the new prohibition. The new prohibition on prerecorded messages does not apply to certain healthcare messages. The new rule prohibits telemarketing robocalls to consumers whether or not they previously have done business with the seller.

Under a previous rule that took effect on December 1, 2008 telemarketing robocall messages by businesses covered by the TSR must tell consumers how to opt-out of further calls at the start of the message, and provide an automated opt-out mechanism that is voice or keypress-activated. Prerecorded messages left on answering machines must also provide a toll-free number that connects to the automated opt-out mechanism.

Now consumers who receive pre-recorded telemarketing calls but have not agreed to get them should file a complaint with the commission, either on the donotcall.gov Web site or by calling 888-382-1222.

The commission’s 2008 press release announces the changes to the TSR’s prerecorded telemarketing provisions. Including a link to the related Federal Register, the notice can be found on the FTC’s Web site, www2.ftc.gov/opa/2008/08/tsr.shtm.

The Federal Trade Commission (FTC) works for consumers to prevent fraudulent, deceptive, and unfair business practices. The FTC also works to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC’s online complaint assistant or call 877-FTC-HELP (877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 1,500 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC’s Web site provides free information on a variety of consumer topics.
OBDII Inspection Fraud: A Serious Issue

This summer NHADA published a Member Alert and an article in Dateline: NH on the illegal substitution of vehicles in the On-Board Diagnostics II (OBDII) inspection process.

The NH State Police take very seriously the issue of substituting or cloning vehicles to receive a pass on an OBDII inspection; the fraudulent activity will carry stern consequences.

Recently, the Concord Monitor published a story on a chain of VIP Automotive stores allegedly caught conducting this activity. Don’t let this be your store! (See www.ConcordMonitor.com, Sept. 9, 2009, “Shop’s car inspections investigated – Owner: Workers fired for faking emissions,” by Annmarie Timmins.)

NHADA urges you to reread the state police warning (partially reprinted below). Ensure these violations are not occurring in your shop.

Sgt. Stephen Kace of the NH State Police warns, “Each and every occurrence of this fraudulent activity... is a separate criminal offense. Each time a safety inspection mechanic connects a vehicle to the NHost Unit (the portable OBDII computer sanctioned by the state) other than the one receiving an official inspection, another offense is committed. Each offense is a misdemeanor, which can result in potential time in jail and/or significant monetary fines. Furthermore, the station’s inspection license and individual mechanic’s inspection authorization hang in the balance.”

The NHost OBD II Units provided by Gordon-Darby for motor vehicle inspections can easily determine if one vehicle has been substituted for another. All official inspection activities are monitored by the Division of Motor Vehicles (DMV). Improper activities are readily noticeable and are forwarded to the NH State Police by the DMV for investigation.

NHADA suggests that you double check the practices that take place at your shop to ensure compliance.

If you have any questions contact me at 800-852-3372 or by e-mail at dbennett@nhada.com. You can also contact Troop G of the NH State Police at 603-271-3339.

Environmental Corner

2009 Sustainable Business of the Year

Congratulations to NHADA member Importech, its owner Jason Stretch, and all of its employees!

Importech of North Conway recently was nominated as 2009 Sustainable Business of the Year by the Mount Washington Valley Chamber of Commerce and the Mount Washington Valley Green Team.

Importech owner Jason Stretch says his shop has taken many environmental steps. “It is not that hard to recycle,” Jason said, “and it has actually more than paid for itself.

“Our dumpster needs to be picked up only once every three weeks. We used to have to have it picked up once a week. This is after removing cardboard, plastic bottles, and oil filters.”

Importech is a past recipient of the NH Department of Environmental Services Used Oil Grant program and received funding that was used to purchase a used oil filter crusher. (They were the first private sector small business recipient).

Congratulations to Importech for all their great work in operating an environmentally friendly service shop. Keep up the good work!
Collision Repair Corner

One of the main goals of the NHCRAG is to support the collision repair industry here at home in New Hampshire.

Question: You use tools to repair a damaged vehicle, correct? What tool do you use to determine and/or negotiate the time necessary to repair the damage?

Our goal is to help you develop that tool. The checklist shown below has been created to help determine the value of repairing a damaged body panel.

To determine the approximate time required for the repair, place a time value in tenths-of-an-hour at the end of each line. These times (like all databases) should be based on the time it would take the average, B-class technician to complete the repair, not your fastest A-class technician.

The form can be customized to fit your business and internal procedures. Note: Featheredge, prime, and block should not be part of the body repair, as per all database providers. This should be listed as a separate line item; most insurance companies include it as part of the repair time, so we included it here.

Reminder: When insurance companies include the priming process in the repair process, you receive nothing for all the materials required in that process. Also, if the featheredge, prime, and block time starts at approximately 1 hour, how can any dent be a 1-hour repair if the priming process is to be included? Where is the body time?

Have fun with this. You can even hand it to a less seasoned appraiser and ask them to fill it out. I hope it is useful.

Body Repair Estimating

Dave Ludwig of Prestige Auto Body is a member of the New Hampshire Collision Repair Group (NHCRAG)

Body Repair Calculation Worksheet
(estimate time value in tenths-of-an-hour)

1. Wash panel with water-based cleaner. ________
2. Wash panel with silicone-based cleaner. ________
3. Remove paint beyond dented area. ________
4. Raise dent to create a level surface (ex.: stud gun, pullers, picks, etc…) ________
5. Level metal surface by grinding, body file, etc… ________
6. Mix and apply plastic filler. ________
7. Once plastic filler is cured, sand filler to match the contour of the panel. ________
8. Optional: Reapply plastic filler and sand if necessary. ________
9. Feather paint edge with 180 grit sandpaper. ________
10. Blow off and clean surface. ________
11. Mix and apply glazing putty/pin-hole eliminator. ________
12. Once material is cured, sand surface to achieve a scratch (no greater than 180 grit). ________
13. Clean and inspect. ________
14. Move vehicle to priming department. (Spraying in the open is against OHSA regulations.) ________
15. Priming Dept: Feather area surrounding repair with 400 grit to remove all 180 grit scratches. ________
16. Blow off, clean with appropriate cleaner. ________
17. Mask all adjacent areas and jambs. ________
18. Cover vehicle for overspray. ________
19. Technician goes to mixing room, mixes primer, loads spray gun, and returns to vehicle. ________
20. Tack area and apply first coat of primer. ________
21. Return to vehicle and apply second coat of primer. ________
22. Once air dried or baked, Move vehicle to prep area. ________
23. Block sand area wet or dry with 400, then 600 grit sandpaper. ________
24. Wash and clean surface and jambs, ready for paint ________

Total Time

* Based on an average class-B tech, not a class-A technician
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NHADA Golf Tournament Snapshots

The Thirteenth Annual NHADA Golf Tournament at Lochmere Country Club brought a great day to benefit a great cause – the New Hampshire Automotive Education Foundation (NHAEF).

In next month’s Dateline: NH, we will list all winners, provide more photos, and acknowledge everyone who made the Thirteenth Annual NHADA Golf Tournament a success.

Zurich, NHADA Golf Tournament Prime Sponsor, made the event possible.

NHAEF President Mark Tulley thanked everyone who participated and supported the education foundation.

Three generations represented Contemporary Chrysler Dodge and had a fun day.

(L-R) Avis Mello, David Hammer, Austin Hammer, and Jared Hammer.

(L-R) Doug Coyle, Zurich; Joe Martin, Unique Ford; Mark Giguere, Zurich; and Ken Desmarais, Zurich.

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Jim How
Katie Karl
Patricia Moncino

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Emotional Resiliency: When the Going Gets Tough, the Tough Bounce Back!

Stress is a fact of modern life. Whether caring for children, disabled persons and elderly parents, holding down a job (or two or more), an argument with a spouse, keeping up with the monthly bills, everyone faces daily challenges. Added to these everyday stressors are unpredictable events such as deaths, serious illnesses, natural disasters, and social upheavals that often occur randomly and without warning.

The ability to cope with stress and bounce back from problems in positive ways is called emotional resilience. The attitudes that underlay emotional resilience are powerful because they enable people who subscribe to them to cope with great efficiency and effectiveness. Those people that possess emotional resilience harness inner strengths and rebound more quickly from a setback or challenge, whether it is a job loss, an illness, a disaster, or the death of a loved one.

In contrast, those individuals who lack resilience tend to dwell on problems, feel victimized, become overwhelmed, and turn to unhealthy coping mechanisms, such as overeating and substance abuse. They may even be more inclined to develop mental health problems. One of the principles of coping successfully is to believe that it is possible to cope. Resilient people believe that they have the potential for control over their lives; they believe that they can influence their situation. Non-resilient people tend not to share this belief, and consequently their stress coping efforts do not fare as well. People do not work at coping when they do not believe that coping can help.

Emotional resilience will not make your problems go away. But resilience can give you the ability to see past those problems, find enjoyment in life and handle stress better. Resilience is the ability to “roll with the punches.” It means that although you encounter stress, adversity, trauma or tragedy, you keep functioning, both psychologically and physically.

Resilience is not about “toughing it out” or living by old clichés, such as “grin and bear it.” It does not mean you ignore your feelings. When adversity strikes, you still experience anger, grief, and pain, but you are able to go on with daily tasks, remain generally optimistic, and move forward with your life. Being resilient also does not mean being stoic or going it alone. In fact, being able to reach out to others for support is a key component of being resilient.

Emotional resilience can help protect against mental health problems, such as depression and anxiety. It can also help offset the factors that put you at risk of mental illness, such as lack of social support, being bullied and intimidated, or previous trauma. And, being resilient can help you cope better with an existing mental illness. Although a little anxiety can be motivating, too much anxiety and stress can be paralyzing.

Working on your mental well-being is just as important as working on your physical health. The following are some coping strategies and tips for strengthening your resilience, and building your resiliency reserve:

Focus on what you can control. Accept that you cannot change the past and often cannot change other people. Resilient people believe that they are in control of their lives, and it is true: while we cannot control our circumstances, we can control how we respond to those circumstances, and that makes a big difference in our attitudes, and in the course our lives take. Develop your internal locus of control. Research has shown that those with an internal locus of control – that is, they feel that they control their own destiny rather than their fate being largely determined by external forces – tend to be happier, less depressed, and less stressed. Realize that you always have choices to change a situation. Even if you do not like the choices available at the moment, even if the only change you can make is in your attitude, you always have some choices.

Develop the right attitude. Resilient people tend to view life’s difficulties as challenges and respond accordingly with action, rather than with fear, self-pity, blame, or a “victim mentality.” While life can be very challenging, an important step in becoming more resilient is to develop positive self-talk, and to remind yourself that you are strong and can grow stronger and wiser as you handle life’s challenges.

Cultivate optimism. Research shows that being positive can help you bounce back from difficult situations. Being an optimist is more than looking on the bright side, although that does help. It is a way of viewing the world where you maximize your strengths and accomplishments, and minimize your weaknesses and setbacks. Developing a more optimistic world view can help you become more resilient and see the “glass half full.”

Laugh! A sense of humor is a key to dealing with life’s ups and downs. Finding humor in stressful situations does not mean you are in denial. Humor would not work at coping when they do not believe that coping can help.
NEVER BACK DOWN FROM A CHALLENGE

Proud Sponsors of the NHADA
is a helpful coping mechanism. If you are able to laugh at life’s frustrations, you can have increased immunity to stress and adversity.

**Rally social support.** Make connections and build strong, positive relationships with family and friends who provide support and acceptance. While we ultimately face our own challenges, a supportive friend or group of friends can help lighten the load. Those with strong networks of social support tend to stay healthier and happier throughout life, and tend to cope well with stress. Conversely, those with little support may find themselves more vulnerable, and those with conflicted and unsupportive relationships tend to fare even worse. Consider volunteering, getting involved in your community, or joining a faith- or spiritual-based group.

**Get active!** Exercise has been correlated with stronger levels of resilience. This may be due to the effects of endorphins on one’s mood, or the physical health benefits to those who exercise, or both.

**Take care of yourself.** Tend to your own needs and feelings, both physically and emotionally. This includes participating in activities and hobbies you enjoy, getting plenty of sleep and eating well. You cannot give to others if your “emotional well” is dry!

---

Emotional resilience can help you endure loss, chronic stress, traumatic events, and other challenges. It will help you to develop a reservoir of internal resources that you can draw on. Resilience will help you survive challenges and even thrive in the midst of hardship.

Becoming more resilient takes time and practice. If you do not feel you are making progress – or you just do not know where to start – consider talking to a mental health professional. With guidance, you can improve your resiliency and mental well-being.

References:
*Resiliency: How to bounce back.* Mayo Clinic Health Solutions, September 2009.
www.stress.about.com/understandingstress/a/resilience.htm

For more information, contact NHAD Services, Inc. – Insurance Division at 800-852-3372 or by e-mail at lduclos@nhada.com.

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- American Fidelity Assurance Company – offering Section 125 Administration, Long-term Disability coverage, Voluntary Short-term Disability coverage, Hospital GAP Insurance, Cancer Insurance, and Accident Insurance
- EM – Power Services, Inc. – offering Long-term Care Insurance

For more information, contact NHAD Services, Inc. – Insurance Division at 800-852-3372 or visit our Web site at www.nhada.com and click on Services Insurance Division.
Federal Minimum Wage Increased; More Federal Wage Audits Expected

Meredith Cook, Esq.

The federal minimum wage increased to $7.25 per hour on July 24, 2009. Simultaneously, the U.S. Dept. of Labor (DOL) began to hire 150 new investigators. DOL plans to hire an additional 100 investigators, increasing staff more than one-third. While New Hampshire employers have been required to pay the $7.25 minimum wage rate for almost a year, the increase in the federal rate presents an opportunity to review your pay practices before the expected increase in audits.

Although federal and state laws begin with the assumption that all employees will be paid minimum wage, a number of exemptions apply. An employee meeting the white-collar requirements of the federal Fair Labor Standards Act (FLSA) and completing the duties of an executive, administrative, professional, or outside sales position is exempt from the minimum wage requirement if the employee is paid on a salaried basis of at least $455 per week. If an employee meets all of the requirements, the employee also is exempt from overtime pay. Employees who do not meet all of the requirements must receive minimum wage for all hours they work, even if they are paid on a salaried basis.

Employers must keep a record of the hours worked by all employees who do not meet the requirements of the FLSA’s white-collar exemptions. The record-keeping rules of the New Hampshire Department of Labor are very specific and require employers to record the time work began and ended, including any meal periods. If your current time sheets only require New Hampshire employees to log the total hours worked each day, now is a good time to modify your form to have employees record the times they begin and end work.

Certain employees of automobile dealers may be exempt from overtime pay, but the dealership must continue to pay minimum wage and record the hours they work. For example, sales employees at an automobile dealership spending more than 50 percent of their time selling cars or trucks need not be paid overtime but must be paid minimum wage and must keep a record of the hours they work. Therefore, even if sales employees are paid on a commission basis, the dealership must review each paycheck against the hours worked by the employees to confirm they have been paid at least minimum wage.

If your business employs individuals outside New Hampshire, be sure to check the laws of each state to determine if your employees are entitled to a higher minimum wage rate. As an example, the Vermont minimum wage is $8.06 per hour and is subject to increases each year on January 1 based upon the Consumer Price Index.

In light of the expected increase in federal wage and hour audits, employers should review their pay practices now to avoid fines and required wage payments later. If you have any questions or need further information about wage payment practices, please contact Meredith Cook at mcook@wiggin-nourie.com or call her at 603-629-4511.
**Compliance Corner**

**Brian Duplessis, Loss Prevention Coordinator**

For many years the most severe type of injuries – year after year – were back injuries to service technicians. A more recent trend these last few years is the dramatic increase in the frequency of claims for slips and falls on ice.

These claims have been on the rise since 2006. Several consecutive winters with copious snow and cold temperatures have contributed to the rise in claim frequency. The more painful part is that the average cost in 2009 is 357 percent more than in 2006, fueled by an increase of 605 percent in average medical costs, per claim, for these injuries. In 2008, slip/falls on ice represented 14 percent of total claims and 21 percent of incurred costs. With another winter right around the corner, Loss Prevention is gearing up to assist WCT members with efforts aimed at preventing these costly injuries.

Loss Prevention recommends our members employ a multi-pronged approach to combating the hazards of snow and ice. Step one is the development and implementation of an inclement weather plan. Effective planning will ensure that the business is ready for the storm and allows for thorough and efficient snow removal. Also as part of the plan is a daily lot-maintenance routine that addresses day-to-day melting and freezing hazards, which can easily sneak up and cause an injury.

Next is securing the proper supplies and equipment. Shovels, snow rakes, ice melt, sanding, and plowing capabilities must all be accounted for well in advance of bad weather. NHAD Services can assist you with many of these items, including snow brooms and both environmentally friendly and regular ice melt.

Awareness is another key ingredient. Strategically placed signage, employee trainings, planning meetings, and reminders on proper footwear are all great ways to stress to staff the importance staying upright during the slippery season. Loss Prevention has a weather safety training program that we provide free on-site at your convenience.

Based on the trends and the impact that these types of injuries are having on the performance of the WCT, it is imperative that every member aggressively address this issue. The claims are having a dramatic effect on the cost of your workers’ compensation and the size of your rebate. We are here to help you with every aspect of your prevention efforts (except shoveling and plowing)! Contact Loss Prevention at your convenience at 800-852-3372 or e-mail me at bduplessis@nhada.com.

### Safety/OBD II Inspections Statistics

<table>
<thead>
<tr>
<th>Safety Inspection Results</th>
<th>Aug 09</th>
<th>% of Total</th>
<th>YTD 09</th>
<th>% of Total</th>
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<td>705,203</td>
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<td>124,024</td>
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<td>5.70%</td>
<td>52,394</td>
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<td>Untested</td>
<td>6,401</td>
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<td>53,085</td>
<td>5.70%</td>
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<table>
<thead>
<tr>
<th>OBD II Inspection Results (1996 and newer)</th>
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<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
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<td>85.90%</td>
<td>688,928</td>
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<td>10.30%</td>
<td>84,974</td>
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<td>Untested</td>
<td>3,811</td>
<td>3.80%</td>
<td>30,754</td>
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</tbody>
</table>

*Total numbers include OBD II Inspections

Statistics provided by Gordon-Darby
Recent Workers’ Compensation Questions... and Answers

Peter Sheffer, Workers’ Compensation Trust Director

Q. If an employee contracts H1N1 while at work, will it be covered by Workers’ Compensation?

A. Generally Workers’ Compensation does not cover common colds and illnesses that can be contracted outside of work in the general public. However, the affected employee has the right to file a claim for Workers’ Compensation benefits. Workers’ Compensation legal expert Paul Salafia, from the law firm of Devine Millimet, advises: “In order to prove the existence of a work-related injury, it must be proven that the injury, or in this case the illness, arose out of, and in the course of the employment. This would be a difficult claim to establish as work-related because the exposure to H1N1 is just as likely to have occurred outside of the workplace. The claimant would, at a minimum, be required to show the presence of a positive case in the workplace, an exposure to that positive case of a magnitude medically sufficient to transmit the disease, and a competent medical opinion establishing causal relationship to the workplace. Even with this evidence, it is likely that a causal non-workplace exposure could be found to be the basis of the contracture of the disease.”

Q. My payroll figures have changed since I completed the self-audit payroll report. What should I do?

A. If there are changes in your payroll sufficient to affect your premium, please call or e-mail Marianne Gourgiotis (800-852-3372 or mgourgiotis@nhada.com) and provide the new payroll figures. Marianne will adjust the premium accordingly. We will bill one month in advance, so billing for November will be mailed this month leaving very little time to adjust bills in 2009. However, providing accurate payroll information throughout the year will positively impact any adjustments that must be made after the actual payroll audit is performed.

Q. Is our company required by the NH Workers’ Compensation statute to have a safety committee?

A. Yes. All employers with five or more employees are required to have a safety committee, aka Joint-Loss Management Committee. Employers with 20 or fewer employees must have a minimum of two members; those with 20 or more employees must have a minimum of four members. Employees shall select employee representatives and the committee must be composed of an equal number of employer and employee representatives. Committee members shall be representative of the major work activities of the employer. The committee must meet at least quarterly; minutes must be kept and posted for review of all employees. The committee is charged with establishing specific safety programs, reviewing workplace accident and injury data, assist with the identifying of necessary safety and health training for employees and assist with the identification and definition of temporary alternate duty tasks.

Developing and maintaining an active safety committee may sound like a daunting and time-consuming project but the NHADA WCT Loss Prevention Department is available to assist members with this project. Our staff will help establish the committee and attend quarterly meetings to point you in the right direction. Please contact your Loss Prevention representative or Brian Duplessis, by e-mail at bduplessis@nhada.com or call 800-852-3372 to get started with your safety committee.

Q. My employee who reported that he was injured at work wants to go to see his primary care physician. Is this okay?

A. Probably not. Members of the NHADA WCT are participants in a formal managed-care program, which requires that injured employees be treated within the comp mc managed care network. The network is made up of hospitals, occupational medicine facilities, orthopedists, and other medical specialists, so it is unlikely that a primary care physician would be in the network. Our goal is to make sure that your injured employee gets the best and most appropriate medical treatment available. In order to ensure treatment is within the comp mc network of providers we encourage members to call Nurse Case Manager Marta Robbins immediately after an injury occurs. Medical treatment outside of the network of providers will not be covered. If you would like training in the area of managed care or another aspect of Workers’ Compensation, please contact Bernie Hecht at bhecht@nhada.com or call him at 800-852-3372.

2009 Unemployment Rates by Area

<table>
<thead>
<tr>
<th>Area</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
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</thead>
<tbody>
<tr>
<td>United States</td>
<td>9.1%</td>
<td>9.7%</td>
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<tr>
<td>New England</td>
<td>8.1%</td>
<td>8.5%</td>
<td>8.5%</td>
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<tr>
<td>Connecticut</td>
<td>7.9%</td>
<td>8.1%</td>
<td>8.0%</td>
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<td>Maine</td>
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<td>8.3%</td>
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<td>Massachusetts</td>
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<td>8.7%</td>
<td>8.9%</td>
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<td>New Hampshire</td>
<td>6.4%</td>
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<td>Rhode Island</td>
<td>12.1%</td>
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<tr>
<td>Vermont</td>
<td>7.1%</td>
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<td>6.5%</td>
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2009 ASSOCIATION PARTNERS
(as of September 23, 2009)

Information on the 2009 Association Partnership Program is available.
To become an Association Partner.

New Hampshire Department of Safety, Division of Motor Vehicles

Title Statistics Report Ending: August 31, 2009

<table>
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