



*Driving New Hampshire Forward*

# Dateline: NH

March 2017

Volume 40, Issue #3

a publication of the New Hampshire Automobile Dealers Association



**How to Grow Your Workforce, p.3**

**NH DOL Clarifies Youth Employment Prohibitions, p.4**

**NHADA Town Meetings On Their Way, p. 5**

**NH Top Court: Exporter Must Pay Dealer, p.13**



2016-2017 NHADA OFFICERS

Chairman

Larry Foss

Vice Chairman

Mike Kopp

Treasurer

David Hammer

Secretary

Roger Groux

President

Peter J. McNamara

2016-2017 NHADA DIRECTORS

Jake Aleksa, Independent Used Car

Miles Cook, Franchised, At-Large

Chelsey Gaudet Parks, Franchised

Don Goulet, Independent/Repair/Service, At-Large

Shawn Hanlon, Franchised/Independent

Paul Holloway, Honorary

Mike Kopp, Franchised/Independent

John "Jack" McDevitt Jr., Heavy Duty Trucks

Doug Miles, Franchised, At-Large

Lisa Nast, Motorcycles/Powersports

Derek Snowman, Franchised

NADA DIRECTOR

Dennis Gaudet

\*\*\*

This publication is designed to provide accurate and authoritative information in regard to the subject matters covered. In publishing this newsletter, neither the authors nor the publisher are engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Advertisements appearing in Dateline: NH do not indicate a specific endorsement by NHADA of the products or services unless the NHADA endorsement symbol appears with the advertisement.



Published monthly except in July in Bow, New Hampshire, by the New Hampshire Automobile Dealers Association. Mailing address: P. O. Box 2337, Concord, NH 03302-2337, 603-224-2369/800-852-3372.

STAFF

Publisher Larry Foss
Editorial Director Peter J. McNamara
Managing Editor Nathaniel Stout
Design and Layout Lisa Lavoie
Advertising Coordinator Michael Rosenblum
Photographer

ADVERTISING RATES

Table with advertising rates: Back Page, Full Page, 1/2 Page, 1/3 Page, 1/6 Page. Columns for Color, \$1,000, \$700, \$450, \$375, \$300 and B&W, \$575, \$375, \$300, \$250.

nhada.com | nhadastore.com

New Members

East Coast Truck & Auto, Inc.

25 Lafayette Road

Rye, NH 03870

379-9949

Nicholas Mancini

Thompson Automotive Inc.

dba Nashua Kia

107 Daniel Webster Highway

Nashua, NH 03060

888-8080

Jeffrey Thompson, Sr.

MAG Retail Holdings – SUB, LLC

dba McGovern Subaru

203 Lafayette Road

North Hampton, NH 03862

888-595-1428

Matthew McGovern

SJH Autos LLC

489 Main Street, Bldg. #2

Gorham, NH 03581

738-8601

Shawn J. Hanlon and Miles Jordan

Inside This Issue

Advocacy

NHADA's Grassroots TEAM is at Work ..... 6

Compliance

Communicate Early, Let NHADA Help ..... 7

Events

NHADA Town Meetings On Their Way ..... 5

Who's Who at the NHADA Cruisin' Convention ..... 10-11

Legal

NH Top Court: Exporter Must Pay Dealer ..... 13

Legislation

Two Months Into the '17 Legislative Session ..... 14

Health

An Important Message From Your NHADA Board Of Directors In Conjunction With Nancy Phillips Associates ..... 16

OSHA Recordkeeping Electronic Submittal ..... 9

Workforce

How to Grow Your Workforce ..... 3

NH DOL Clarifies Youth Employment Prohibitions ..... 4

2017 NADA Dealership Workforce Study Open for Participation ..... 17

Workers' Compensation

Workers' Compensation Checklist ..... 8

Monthly Statistics ..... 18

Cover: Collage by Nat Stout

# How to Grow Your Workforce

Peter McNamara, NHADA President

NHADA and its NH Automotive Education Foundation (NHAEF) have begun an aggressive workforce development campaign. The newly created Workforce Task Force has already implemented a number of initiatives that I'll touch upon below and which will be more fully discussed at the March town meetings (see page 5).

The key goal is to grow the automotive workforce. This will be no easy task, and it will take many years of patient labor. We are in a good position with the great high school and community college programs already in place. NH auto businesses need to play the equivalent of baseball's small ball: take deliberate, methodical

steps to advance our way toward growing a larger workforce. The only way to get this done is with a team effort, the most important work being done by you, the individual shops in local towns and cities.



Peter McNamara

### Workforce Task Force initial strategic steps:

- **Target men and women under 25 years old and parents** of these young people through social media, email, mail and direct visits. Being developed already are short videos

with targeted messages, which will be ready by early March.

- **Modify the NHADA website to create an auto career landing page.** Nat Stout, NHADA communications director, will have this ready by early March.
- **Attend college and career fairs at high schools and middle schools.** NHADA is gathering all the dates and will prepare materials and table displays. Local NHADA members are encouraged to attend.
- **Obtain youth employment clarification from the NH Department of Labor (DOL).** Done. The DOL has made it clear that 17-year-olds

*Workforce – continued on page 16*

# FLOORPLAN

SMART. SIMPLE. EASY.



*Guarantee*

**No Hidden Fees...**

**No Hassle...**

**#1 in Service for over 50 Years!**

**PUT US TO WORK FOR YOU TODAY!**

**AUTO USE FLOORPLAN**

For more information contact:

**(800) 873-2907**

autouse.com



# NH DOL Clarifies Youth Employment Prohibitions

Peter Sheffer, Workers' Compensation Trust Director

Following a request from NHADA President Peter McNamara, the NH Dept. of Labor Commissioner Jim Craig very helpfully clarified how and when 17-year-olds can drive vehicles and 16- and 17-year-olds can operate lifts.

RSA 276-A and NH rules LAB 1000 set forth the requirements for youth employment in NH. LAB 1000 incorporates certain federal standards as set by the US Department of Labor (USDOL). Specifically, LAB 1003 requires that employers comply with certain federal orders that regulate youth employment in hazardous occupations, as dictated in the Child Labor Bulletin No 101 (CLB NI 101) (<http://bit.ly/CLB101>) publication WH-1330, revised February 2013. CLB No 101 references and discusses 17 Hazardous Occupation orders (HOs), which delineate occupations determined too hazardous for minors under the age of 18 to work in. HO #2, as listed in the CLB No 101, addresses employed youths driving motor vehicles, and HO #7 addresses the use of hoisting apparatus by employed youths. There are some exemptions to certain HOs, including HO #2 and HO #7, that apply to employed minors of specified ages.

Seventeen-year-olds who are employed in the automobile service facilities are permitted to drive when the following standards/restrictions are met:

- The motor vehicle does not exceed 6000 pounds gross vehicle weight;
- Driving occurs during daylight hours;
- The 17-year-old has a state license valid for the type of driving involved in the job performed;
- The 17-year-old has completed a state-approved driver education course, with no record of moving violations at the time of hire;
- Driving takes place within a 30-mile radius of the 17-year-old's place of employment;
- The vehicle is equipped with a seat belt for the driver and any passengers, and the employer has given instruction to the 17-year-old that the seat belts must be used when driving;
- The driving is only occasional and incidental to the 17-year-old's employment. Occasional and incidental is defined by CLB No 101 and HO #2 as no more than one-third of the

17-year-old's worktime in any work-day, and no more than 20 percent of the 17-year-old's worktime in any workweek.

Furthermore, the driving performed by the 17-year-old may not involve the following activities:

- Towing of vehicles;
- Route deliveries or route sales;
- Any transportation-for-hire of goods, passengers, or property;
- Urgent, time-sensitive deliveries;
- Transporting more than three passengers, including employees of the employer;
- Driving more than 30 miles from the 17-year-old's place of employment;
- More than two trips away from the primary place of employment in any single day to deliver goods of the employer's to customers;
- More than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer.

There has been confusion as to whether 16- and 17-year-olds employed in the automotive industry are permitted to operate lifts. The federal standard defines hoisting apparatus, HO #7, as a hazardous occupation for youths, and they are prohibited from engaging in the use of power driven hoisting apparatus including forklifts, non-automotive elevators, skid steers and steer loaders, backhoes, man-lifts, scissor lifts, cherry pickers, work-assist platforms, boon trucks and cranes.

However, lifts to raise automobiles in automotive and gas service stations are not specifically excluded. The US DOL Field Operations Handbook does not

PLATINUM



"Emissions & safety inspection equipment provider"

For more information, please visit [www.gordon-darby.com](http://www.gordon-darby.com).

NHADA Association Partner

# NHADA Town Meetings On Their Way

NHADA will hold a series of town meetings throughout the state to discuss issues of importance to our members. The main topic of our town meetings will be on the shortage of skilled auto techs and other staff. NHADA will unveil an extensive PR and grassroots campaign to help increase the pool of available techs. The campaign will benefit all NHADA members, so it is critical that you attend. Successfully increasing the pool of techs and other employees can only be accomplished with local involvement. NHADA cannot accomplish this from its offices in Concord.

Other discussion topics will include: Legislative actions in Concord and Washington, DC; regulatory updates including the NH Division of Motor Vehicles and NH Department of Safety.

You might also be the lucky winner of a \$50 cash card; one will be given out at each meeting, but you'll have to be present to win. A light breakfast or lunch will be served. For planning purposes, you must register to attend.

TUESDAY, MARCH 14		
Nashua Community College	505 Amherst Street, Wellness Center Conference Room	7:30-9:30 a.m.
Keene State College	14 Madison Street, Madison Street Lounge	12:30-2:30 p.m.
THURSDAY, MARCH 16		
Portsmouth at Great Bay Community College	320 Corporate Drive	7:30-9:30 a.m.
North Conway at Red Jacket Mountain View Resort	2251 White Mountain Highway	12:30-2:30 p.m.
TUESDAY, MARCH 21		
West Lebanon at Fireside Inn & Suites	25 Airport Road	7:30-9:30 a.m.
Concord at NHADA	507 South Street, Bow	12:30-2:30 p.m.

*Youth Employment – continued from previous page*

specifically ban employed youths aged 16 and 17 from automotive and truck servicing establishments. The operations guide clarifies that grease rack lifts used in gasoline service stations, tire stores and other establishments that service automobiles are not prohibited activities under HO #7. The operations handbook also indicates that service jacks, hand jacks, air compressors, tire changers, truck tire changers and wheel balancers are all not prohibited activities under HO #7.


Commissioner James Craig stated that, “activity falling within the above-referenced

exceptions from the restrictions set forth in HO #7 would not be considered to violate the NH DOL regulation.” He does note that the, “NH DOL cannot definitively speak to any possible/prospective USDOL consideration of the topic.”

Any NHADA member employing youths under the age of 18 should do so with extreme caution. According to the NH DOL interpretation of the US DOL statute and field operations handbook, 17-year-olds may drive as outlined above and 16- and 17-year-olds may operate lifts and other equipment

as outlined above.

Please make sure that every employee, particularly youths, are properly trained and supervised on all equipment prior to use. Please ensure that youths understand what to do in the event of an injury. Please remember that youths must be drug tested before they begin work. Please note that the youth applicant as well as a parent or guardian must sign the pre-placement drug testing and consent form.

Contact me if you have questions at 800-852-3372 or by email at psheffer@nhada.com. 



# NHADA's Grassroots TEAM is at Work

Ryan Hale, Government Relations Specialist

A few years back we attempted a pilot program in the city of Manchester to create what was then called the Grassroots Ambassador program. This program was geared to engage Manchester area NHADA members in grassroots activities by assigning them to a few legislators with whom they would develop a relationship and build grassroots-level contacts.

Well, soon after the initial implementation meeting and training, we started working on amendments to the Dealer Bill of Rights, RSA-357-C. As many of you remember, the process of passing that legislation was long and arduous, which pushed the pilot program

to the curb. Yet our grassroots effectiveness was one of the driving forces that helped the changes pass.

Fast forward to November 2016, the week of Thanksgiving, when a number of Manchester area members met again in an attempt to rejuvenate this program, which is now called the Grassroots TEAM. The group held a two-hour, informative meeting. Before adjournment, participants were given an assignment: call their two, assigned legislators and invite them into their place of business.

These visits were to act as an ice-breaking exercise, introducing the legislators to the industry and issues we face in Concord. There were no "asks" associated with these meetings. In the end, our aim was to make the participating members into valuable resources to their legislator.

This part of the program has become more difficult than we had envisioned. Members have been making calls and sending emails to their assigned legislators. A number of the calls and emails have unfortunately fallen on deaf ears. However, one of the members participating in this program, John Berry from Bonneville and Son, called to tell me he had luck setting up a meeting with one of his two legislators. It just happened



Ryan Hale

to be the Monday morning after the Super Bowl; we all were a bit sleep deprived.

At 9 o'clock that Monday morning we met with Representative Connie Van Houten, a first-year Democrat, who sits on the Commerce


Committee, a committee we spend little time in front of. During the hour-and-a-half meeting, we discussed the state's safety inspection and emission program and distracted driving as well as the technician shortage and the importance of growing NH's workforce. In the end, Rep. Van Houten stated that she didn't know much about our industry but now had a better understanding. She stated she supports NHADA's position on the all the issues discussed.

This exercise truly shows the importance and effectiveness of these meetings and grassroots!

Moving forward, if this program is successful, our vision is to expand it to all corners of the state over the next five years. It will then give us the ability to have dealer/legislator contacts with, hopefully, all 424 legislators.

To learn more or if you have interest in participating in NHADA's grassroots efforts, contact me at 800-852-3372 or at rhale@nhada.com. 📌

**SILVER**



**DELTA DENTAL**

**Northeast Delta Dental**

Providing quality and affordable dental programs

For more information, please contact your NHADA Sales Representative Laurie Churchill at 800-852-3372 or by email at lchurchill@nhada.com.

NHADA Association Partner

**New Members**

<b>AutoCare Plus, LLC</b> 635 Center Street Wolfeboro, NH 03894 569-1068 John Manelas	<b>Auto Sense</b> 282 North Broadway Salem, NH 03079 Erik Kirste, James, Kirste, Kelly Melim 893-2400
---	---

# Buying or Selling? Opening or Closing? Communicate Early, Let NHADA Help

Dan Bennett, Vice President of Government Relations

Buying or selling a dealership or inspection station or simply relocating or opening an annex can be complicated, lengthy, and costly. We know you want to get to work right away once the process is complete. Unfortunately, many people forget about the variety of state regulatory agency rules and licenses that must be followed and obtained.

NHADA's advice? Start applications early; let us help.

The NH Division of Motor Vehicles (DMV) states that it will take one to four months to open up a new dealership. We believe that by getting the application in as early as possible and ensuring it is complete on the first submittal, this process can be


made easier for both you and the DMV. Communication is key. Making sure that DMV, State Police, the town, and NHADA are in the loop helps greatly, especially when a deadline such as a closing or a move-in date looms and you want to be open for business immediately.

Here are a few common sense, helpful tips:





- Ensure that the application is complete; this includes all signatures and documentation.
- Give the local municipality the heads-up that DMV will be reaching out to them, and ask the town to respond back immediately.
- Ask NHADA to review the application as "another set of eyes" to ensure

that the application is complete.

- Be sure to include the original bond, copies are unacceptable.
- Make sure you have recent and complete criminal background checks for all owners.
- If you are an inspection station, be sure and reach out to Gordon-Darby for NHOST unit changeover.
- For sales operations, do not forget about your Retail Sellers License at the Banking Department.

For questions on this or for assistance with one of these transactions, let me know, and NHADA will do all it can to help ensure you have a relatively quick and easy experience. I can be reached at [dbennett@nhada.com](mailto:dbennett@nhada.com) or at 800-852-3372. 

## TAKE MOTORCYCLES IN TRADE!

-  Instant quotes while your customer is in the showroom.
-  We're check writers for all powersports vehicles.
-  All brands, models, years, and conditions considered.
-  No need to deliver; we'll pick it up.

To get started, visit  
[bankmytrade.com](http://bankmytrade.com)  
Fill out the form to get your FREE quote!

If you have questions, or would rather get your quote over the phone, give us a call at (603) 369-0031.



# bankmytrade

We are currently able to service dealerships in NH, ME, MA, VT, NY, CT, RI, and NJ.  
If you are outside of these areas, feel free to call us at the phone number above.



# Workers' Compensation Checklist

Peter Sheffer, Workers' Compensation Trust Director

## Before the Injury:

- ✓ Take your time and hire the right person for the job. For assistance with the hiring process, please refer to the NHADA's *Strategic Hiring Guidelines* (<http://nhada.com/HiringGuide>, sign-in required).
- ✓ Perform pre-placement drug test and get results before the employee begins work. Remember hiring an applicant who has failed the drug test opens you up to future workers' compensation liability.
- ✓ Make sure the applicant accurately and completely fills out the Second Injury Fund form available on the NHADA website at <http://bit.ly/2ndInjury>.
- ✓ Make sure all new hires are aware of the NHADA WCT formal Managed Care Program, and know what to do in the event that they are injured.
  - ✓ Report all injuries immediately to supervisor, call NHADA WCT Nurse Case Manager Marta Silakka; seek treatment within the managed care network of providers.

(WCT) at 603-224-8126, which in turn submits information to NH Department of Labor.

- ✓ Employee returns post-treatment to workplace with the NH WC Medical Form.
- ✓ Employer/supervisor reviews the medical form carefully and arranges for work based on the restrictions, or lack thereof, as identified by a doctor on the medical form.
- ✓ If the doctor indicates no work on the form, remind the employee to return to the workplace with the medical form after next appointment.
  - \* **Returning the injured employee to light-duty work is the best way to control workers' compensation costs. It is also required by law and by the WCT agreement.**
- ✓ If you have any concerns about the legitimacy of the claim, or if you have any questions, call the WCT immediately.



Peter Sheffer

## At the Time of Injury:

- ✓ Life threatening injury — call 911 for transport to an Emergency Room.
- ✓ All other injuries, call NHADA WCT Nurse Case Manager Marta Silakka for referral to appropriate network provider.
  - ✓ Employee seeks medical attention based on recommendation by the Nurse Case Manager.
- ✓ Employer completes the Employer's First Report of Injury (8WC) and faxes to NHADA Workers' Compensation Trust

## After the Injury Occurs:

- ✓ Stay in communication with your injured employee whether working light duty or if they are out of work.
- ✓ Review the workers' compensation medical forms after each medical appointment to ensure you are providing appropriate light duty.
- ✓ If you have concerns about the length of the claim or outside activities in which the employee is participating, call NHADA WCT.

## Other Considerations:

- ✓ If the employee failed to provide the medical facility with NHADA WCT information, they may be billed at home.
  - ✓ Remind employees that if they receive bills at home relating to treatment for the injury, to bring them in and fax them to NHADA WCT at 603-224-8126.

Call Pete Sheffer, WCT director, with any questions or concerns at 800-852-3372 or reach me at [psheffer@nhada.com](mailto:psheffer@nhada.com). 📍

SILVER



Tim MacIntyre



**"Wholesale auto auction"**



For more information, please contact  
Tim MacIntyre at 860-422-3620 or [tmacintyre@saa.com](mailto:tmacintyre@saa.com).

NHADA Association Partner



# OSHA Recordkeeping Electronic Submittal

Matt Foster, Loss Prevention Representative

By now all OSHA 300A forms have been mailed to all Workers' Compensation Trust (WCT) members and should be signed by the owner and posted prior to April 30, 2017.

Effective January 1, 2017, OSHA requires that some of the recorded information for injuries and illnesses be submitted to OSHA electronically. Here is a breakdown of who needs to submit, what needs to be submitted, where to submit, and the deadline for submittal.

- **Who:** Establishments with 250 or more employees and establishments with 20-249 employees classified in certain high risk industries. (NAICS code 8113 Commercial

Truck and Equipment & 4413 Automotive Parts, Accessories, and Tire stores)


- **What:** Your Form 300A (Annual Summary) is required by OSHA to be submitted.
- **Where:** OSHA will provide a secure website that will offer three methods to choose from to submit your 300A Form. Though this website is not currently active, stay tuned for upcoming notification from NHADA for when that changes.
- **When:** The deadline for your 300A Form to be electronically submitted is July 1, 2017.

The vast majority of NHADA members do not meet the conditions required by OSHA. If you do not fall into one of the categories outlined above, you do not need to submit any information.



Matt Foster

For more information on the recent changes to the OSHA Recordkeeping and Reporting standard keep a look out for relevant seminars here at NHADA.

For more information, feel free to contact me at [mfoster@nhada.com](mailto:mfoster@nhada.com) or contact me or any other member of the Loss Prevention team by telephone at 800-852-3372. 



## Auto Auction of New England

"Creating Liquidity in the Automotive Marketplace"



- Six Lanes 1,200+ Vehicles
- Fleet/Lease 275+ Vehicles
- Sale Day Promotions!
- Guaranteed Checks and Titles
- Service Department
- Full Recondition
- Transportation



**Conveniently Located at Exit 4**  
Rt. 93 8 Action Blvd. Londonderry, NH 03053

40 min. North of Boston and 10 min. South of Manchester, NH.

**Every Thursday @ 9:00am**

**www.aane.com**  
Tel: 603.437.5700 Fax: 603.437.5800



# FREE Registrations to the NHADA Cruisin' Convention!

The 2016 NHADA Convention was a big success, and the NHADA Events Committee immediately decided hold the 2017 Convention at the same venue, the Red Jacket Mountain View Resort in North Conway, NH, on June 25-27.

**The board voted to once again provide every NHADA independent and franchised member company two FREE registrations.** Partners also receive free registrations, with the number determined by the partner level. Rooms are not included but are reasonably priced at \$129 per night.

This registration includes:

- Bob Marley comedy show (*sponsored by Albin, Randall & Bennett*). People are still talking about last year's show. He is back by popular demand!
- Cruise night dinner by the pool, with entertainment by Without Paris, everyone's favorite dance rock party band (sponsored by *American Financial and Automotive Services, Inc.*); a beer tent with beer tastings by Moat Mountain; caricatures, and of course members' classic, antique and special interest vehicles on display. It's a night you won't soon forget!
- Two tours for those bringing their special interest vehicles (a short ride on Sunday afternoon and a longer ride on Monday), and either a tent or trailer space for your vehicles.
- Water park admission, dinners; cocktail receptions; mini-spa, Kids' Club, keynote address, and more!

## Register Online at [nhada.com/convention](http://nhada.com/convention)

The screenshot shows the NHADA website interface. At the top, there's a navigation bar with links for 'HOME', 'EVENT DETAILS', 'REGISTRATION', 'SPONSORS', and 'PARTNERS'. A central banner features a scenic background of a resort and text: 'Join us for the NHADA Cruisin' Convention! June 25-27, 2017 Red Jacket Mountain View Resort North Conway, NH'. Below the banner are three teal buttons with icons: 'Register now' (with a person icon), 'The Plan of Activities' (with a clipboard icon), and 'Accommodations' (with a building icon). The footer contains 'Connect with us' with social media icons and 'Thank You, Major Sponsors' with logos for 'ALBIN, RANDALL & BENNETT' and 'American Financial & AUTOMOTIVE SERVICES, INC.'.

# Who's Who at the NHADA Cruisin' Convention

We have secured the following presenters to enlighten and entertain you:

**Bob Marley** has appeared on The David Letterman Show, Late Night with Conan O'Brien, and Comedy Central. He can be seen in the film The Boondock Saints. Bob was a huge hit at the 2016 convention! He joins us again for the 2017 convention at the same venue, the Red Jacket Mountain View Resort in North Conway on June 25-27.

**Glenn Mercer** is an automotive industry analyst, with three decades of experience, including over 20 years at McKinsey & Company, where he was a leader of the automotive practice, participating in hundreds of client studies over that timeframe. When he left McKinsey as a partner in 2006, he established his own independent advisory service. Most recently he completed an extensive project on the Dealership of Tomorrow for NADA in the USA. Mr. Mercer holds degrees (of varying relevance) from Dartmouth, Yale, and the Tuck School. Glenn will be presenting a summary of the results of the project he carried out on behalf of NADA last year, "The Dealership of Tomorrow 2025."

**Without Paris** have played to rave reviews and great crowds throughout New England. Their music selection is unlike any other band you have heard. High energy, great music, great rock and roll!

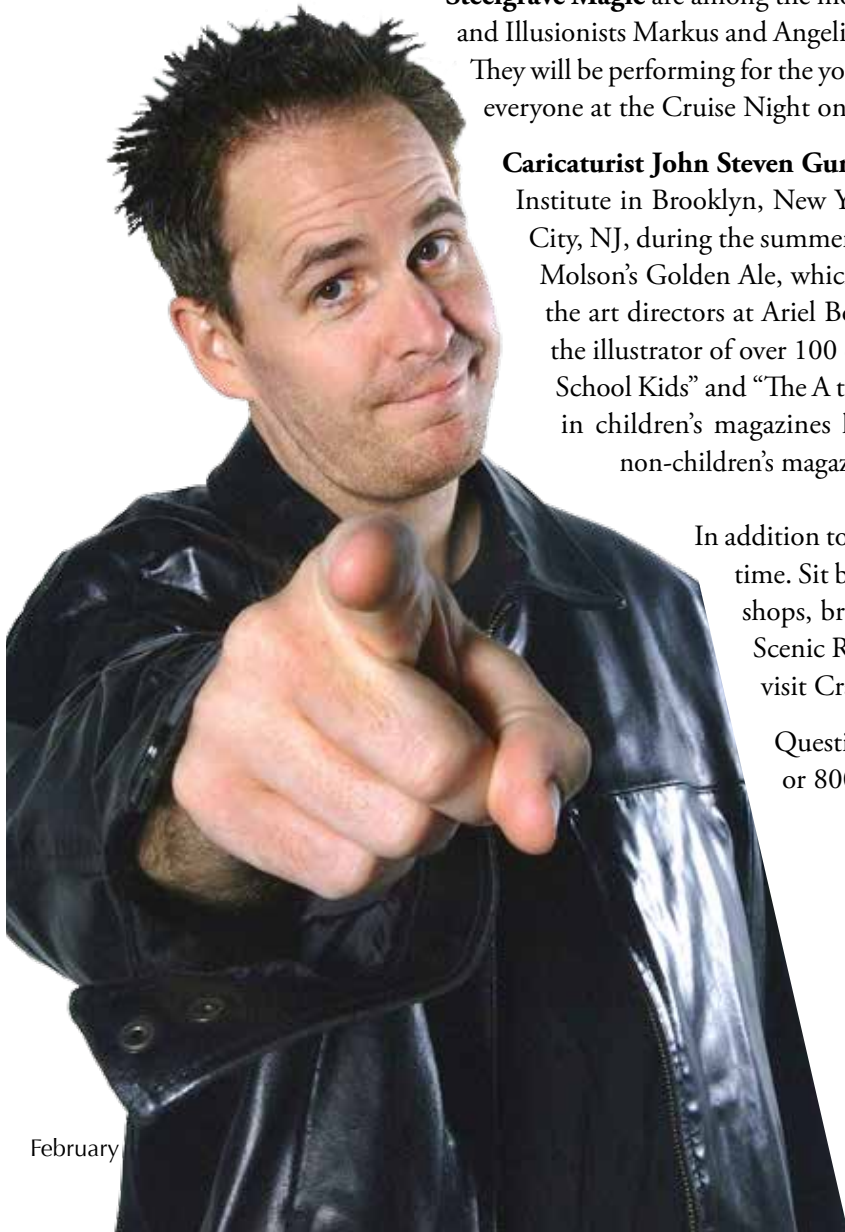
**Steelgrave Magic** are among the most popular magicians in New England today. Magicians and Illusionists Markus and Angelique Steelgrave give hundreds of performances each year. They will be performing for the young set on Sunday night and will be on-hand to entertain everyone at the Cruise Night on Monday.

**Caricaturist John Steven Gurney** is an author and illustrator. He studied art at Pratt Institute in Brooklyn, New York and drew caricatures on the boardwalk in Atlantic City, NJ, during the summers. While in college, he won a national poster contest for Molson's Golden Ale, which appeared in "Rolling Stone" magazine. It was seen by the art directors at Ariel Books and led to his first picture book assignment. He is the illustrator of over 100 children's books including all of the titles in "The Bailey School Kids" and "The A to Z Mysteries" series. His illustrations have also appeared in children's magazines like "Cricket," "Babybug," and "Ladybird" as well as non-children's magazines like "TV Guide" and "National Lampoon."

In addition to all the planned activities, we have built in on-your-own-time. Sit by the pool, enjoy the water park, visit the North Conway shops, bring your kids to Story Land, take a ride on the Conway Scenic Railroad take a hike at Diana's baths and see the waterfall, visit Cranmore Mountain, and lots more!

Questions? Please contact Jean Conlon at [jconlon@nhada.com](mailto:jconlon@nhada.com) or 800-852-3372.

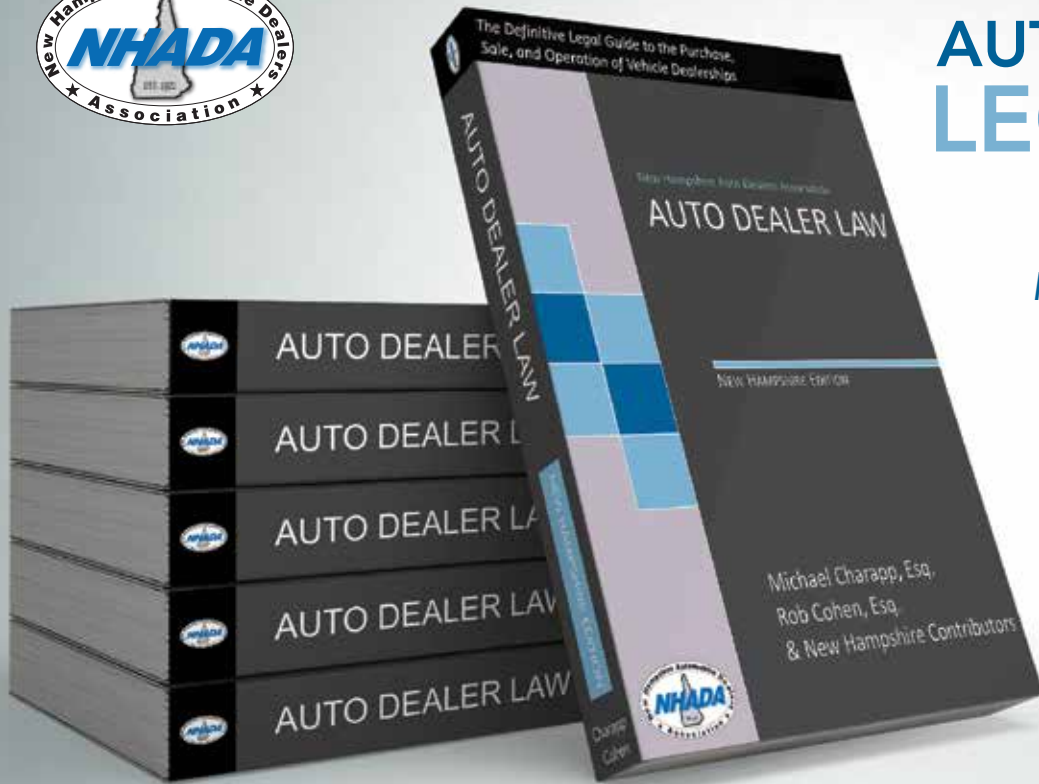
**Bob Marley Show sponsored by:  
Albin, Randall & Bennett**





# New Hampshire AUTO DEALER LAW LEGAL GUIDE

Your **best source** for what's  
happening in **NH auto sales**



Discount price – \$249.00

## Do you want the *knowledge* of NH attorneys and staff at your **fingertips**?

“We are excited to have this legal guide for our business. In this day and age, it is imperative to be informed and make sound decisions based on the facts, not hearsay. The information within the guide relates to all aspects of our operations and clearly spells out rules and regulations that we must follow. Every dealership should have this at their fingertips to utilize. Thanks NHADA”

-Mike Phillips, *Phillips Auto Sales*

- ✓ Loaded with information on legal issues in New Hampshire and federally
- ✓ 35 chapters on important areas of law for motor vehicle dealerships.
- ✓ Includes "Becoming and Staying a Dealer Legally" and "New Hampshire Bank Laws".

### ORDER TODAY!

[www.nhada.com/legalguide](http://www.nhada.com/legalguide)

800-852-3372



# NH Top Court: Exporter Must Pay Dealer

Pete McNamara, NHADA President

In Mid-February, a NH dealer won a small but significant victory in the battle against purchasers of high-end luxury vehicles who later sell the vehicle for export.

**Background on the export problem:** Most franchise agreements between dealers and their manufacturers provide that if a vehicle sold by that dealer to a consumer is then later exported out of the U.S. or North America within a certain time frame after the sale, the dealer will be punished in some fashion (loss of rebates, hold back or future inventory, etc.)

Over the past decade, there have been a growing number of sophisticated schemes where exporters pay local straw buyers to trick the dealers into selling the vehicle. The exporters pay the straw buyer to purchase the vehicle and then title and register it. The exporter immediately then takes the vehicle and sends it overseas. In NH, these schemes have resulted in hundreds of registrations and/or titles in NH by residents who bought the luxury vehicles from out-of-state dealers with no intent of ever keeping the vehicle. The vehicles wind up in various countries, typically China or Russia.

As a result of these straw purchases, NH dealers are punished in two ways. First, if the NH dealer sold the vehicle which was later exported, a manufacturer often takes adverse action against that dealer. Second, even if the NH dealer didn't sell the offending vehicle, they are still punished because the manufacturer "pump-in" reports show that the local dealer is not "sales effective" because of all the fake registrations in that dealer's sales territory. The dealer is then punished with loss of inventory, incentives and even termination.

The export-straw buyer scheme has gotten so out of hand in NH that state and federal authorities have actually successfully prosecuted a handful of straw buyers and exporters. NHADA also changed the Dealer Bill of Rights, RSA 357-C, to limit the adverse action that can be taken by the manufacturer.

**Stopping Exporters and Straw Buyers:** To avoid falling prey to an export (straw purchase or otherwise), dealerships go to great lengths to ensure that the purchaser will indeed buy and keep the vehicle for the minimum period of time.

**The export-straw buyer scheme has gotten so out of hand in NH that state and federal authorities have actually successfully prosecuted a handful of straw buyers and exporters.**

At least one dealer, Holloway Auto Group, required the purchaser to sign an "Agreement Not to Export", which explained that Mercedes USA (MBUSA) prohibited dealers from exporting vehicles out of North America for a one-year period on pain of assessing charges against the dealer. The buyer agrees not to export the new vehicle for a one-year period. If the buyer does export the vehicle, the buyer pays a \$15,000 liquidated damages fee.

When losses from a contractual breach are so speculative or difficult to ascertain, a reasonable liquidated damages clause is sometimes used.

**The lower court ruling:** One Holloway consumer, Steven Giacalone, "Buyer", signed the agreement but then exported his purchased vehicle within the one-year

period. Holloway sued and argued that not only could his losses occur because of a MBUSA chargeback, but also from "lost income from 'maintenance and service,' 'warranty work,' and 'reselling the vehicle,' lost 'future sales to the same customer,' and lost 'payments and interest income on financing.'" Holloway submitted an itemized list of these potential losses with estimated dollar amounts included.


The trial court noted that Mercedes USA did not charge back anything to Holloway and found that the other losses listed were speculative and likely would not get close to the \$15,000 liquidated damages within the one-year limit of the agreement. The court called the \$15,000

*Exporter – continued on page 17*

GOLD

**O'Connor & Drew P.C.**  
Certified Public Accountants

**" CPA firm, accounting, tax, consulting for auto dealerships "**



**Kevin Carnes**

For more information, please call Kevin at 617-471-1120 or email [kcarnes@ocd.com](mailto:kcarnes@ocd.com).

NHADA Association Partner



# Two Months Into the '17 Legislative Session

Dan Bennett, Vice President of Government Relations

The NH Legislature has rounded the corner on its first two months of the 2017 session. Lawmakers began fast and furious, working on a variety of issues critical to NHADA and the state as a whole.

The House and Senate have both passed and killed (that is, made "Inexpedient To Legislate") many pieces of legislation derived from campaign promises — constitutional carry of firearms passed, right-to-work was defeated, for two examples. New Governor Chris Sununu has also released his over \$12 billion, two-year state budget after being in office only five weeks.

The Senate and the House of Representatives are moving through a

number of bills as deadlines approach for legislation to move to a second committee for fiscal or policy review.

A great deal of work on the budget has begun by House lawmakers now that it is their turn to take a crack at it before being sent to the Senate. All bills must either be killed or switched to the opposite chamber by March 30. The same is true for the budget, but in its case by April 6, in what is known as Crossover.

NHADA will once again host its annual legislative Crossover event to thank all elected officials for their hard work and dedicated service on **Wednesday, March 22**. Feel free to join us at the Holiday Inn in Concord, starting at 3 p.m. Stay tuned for some pictures of this great event, where we help legislators unwind halfway through their busy session.

We at the NHADA are watching over 100 bills. Although we have many priorities, there has already been action on three of the most important:

**Repeal of the distracted driving law:** NHADA was one of the many organizations, or people, attending and/or testifying at the first public hearing on this bill. There were an overwhelming number of voices in opposition, including our own. The legislation now awaits a decision by the House Transportation Committee.

**Repeal of the OBD II emissions testing program:** NHADA staff and members, Dave Dupont of Dupont's Service Center, and Ron Poirer of Bob & Sons Automotive, along with many state agencies and others made a strong showing opposing the repeal of annual emissions testing. Wisely, the House Transportation



Dan Bennett

Committee voted to kill this bill by a unanimous (14-0) vote. We now wait to see when the legislation will be presented to the full House.

### Modifying the motorcycle safety inspection requirement to an every-other-year cycle:

NHADA recently testified in opposition to this bill, which would lead to unsafe roads — especially for motorcyclists — by doubling the length of time between inspections for motorcycles. Annual inspections are an affordable, common-sense, preventive measure that save riders' and passengers' lives as well as money spent on expensive repairs. We were joined by the Department of Safety, AAA-Northern New England, and importantly the NH Motorcyclist Rights Organization (NHMRO) in opposition to the bill. NHMRO lent their voice, attending the hearing and testifying in opposition. We thank NHADA members George Mullin of Souhegan Valley Motorsports, Curt Grenier of Naults Powersports, and Norman Martineau of Rochester Motorsports, Inc., who all attended and testified against the bill and lent their expertise. The transportation committee met later that day and, again, wisely voted to kill the bill by a vote of 11-3. While we wait to see when the bill will reach the House floor for a vote, we remain well aware a fight remains on this one.

Please do your part; make your voice heard. Call and email your elected official. Weigh in on these important issues. Our voice in Concord is only as loud as yours back home.

For questions contact me at [dbennett@nhada.com](mailto:dbennett@nhada.com) or 800-852-x 3372. 🇺🇸

BRONZE



**ALPHA**  
WARRANTY SERVICES

"Aftermarket F&I Services"



Denis Richards



Larry Cunningham



Camila Martins

For more information, please contact  
Denis Richards 603-494-0349  
Larry Cunningham 617-921-0264  
or Camila Martins 781-408-1234.

NHADA Association Partner

# LYNNWAY'S **GREATER BOSTON** AUTO AUCTION INC.

REMARKETING SINCE 1977

## 2000+units 8-Lanes

80% New Car Dealer Fresh Trades / 70% Sale Ratio

**WEDNESDAYS** 8:40AM EST

**THURSDAYS** 2:30PM ONSITE\*

### *What Sellers and Buyers Say About Lynnway...*

*"Dedicated buyers are there weekly for my run."*

**SELLER**

*"The best picks of any auction for luxury, late model, low-mileage vehicles."*

**BUYER**

*"Executive management assist me on the auction floor."*

**SELLER & BUYER**

*"I can easily buy Online if I'm not there."*

**BUYER**

*"Dealer reps work closely with me and follow-up."*

**SELLER**

*"I always get friendly, world-class, service."*

**SELLER & BUYER**

Lynnway's Greater Boston Auto Auction | 400 Lynnway, North Billerica MA 01862 | 781-596-8500 | [www.LWAA.com](http://www.LWAA.com)  
Lynnway's ICL Onsite Auction | 181 Newbury Street Rt. 1N, Danvers MA 0123 | 978-880-7330 | [www.LWAA.com](http://www.LWAA.com)



## An Important Message From Your NHADA Board Of Directors In Conjunction With Nancy Phillips Associates

Colon cancer is the second most common cause of death from cancer, with one out of every 20 people at risk. With 100,000 new cases diagnosed each year, you probably know at least one victim personally. March is Colon Cancer Awareness month, and we are asking you to help prevent this dreaded disease by delivering the important message on the poster we included with this month's *Dateline: NH* to your employees, customers, friends and family.

In our small state of New Hampshire, with only 100 dealers, last year alone we lost one to colon cancer, another has been diagnosed and successfully treated with surgery while the wife of a third dealer is battling the disease as we speak.

While this silent killer is ominous, it is also 100 percent curable if detected early on. As auto dealers, you are in a position to help your employees, customers, friends and family by providing this vital

information about cancer screening and early detection.

You may never know whose life you save when you share this poster, but there is a very strong chance that you will make the ultimate difference for someone out there.

### There are several ways to obtain this poster

Go to our website at [nancyphillips.com](http://nancyphillips.com) and click on the banner at the top of our home page to download and print a PDF version yourself. The poster will also be highlighted and available for download under the "Community: Current Project" section of our website.

Contact Sonia Hamel of Nancy Phillips Associates at [Sonia@nancyphillips.com](mailto:Sonia@nancyphillips.com), and we will be pleased to send you glossy, professionally printed posters free of charge while our supply lasts.



(see insert)

If you would like a large quantity or a bigger size, you may order directly from Infinite Imaging by calling Charles Davieau at 603-436-3030 or by emailing [charles.d@infiniteimaging.com](mailto:charles.d@infiniteimaging.com). Make sure to mention Nancy Phillips Associates.

### How you can help

Copy and fix the poster that accompanied *Dateline: NH* this month to the inside door of every bathroom stall in your dealership.

Download the poster from our website, share it on all your social media accounts and ask your friends to share it.

Print the poster and hand it out to your customers throughout Colon Cancer Awareness Month.

*We hope you will join us in making more people aware of the importance of early detection and how it saves lives!* 🇺🇸

### Workforce – continued from page 3

can drive vehicles in certain circumstances and can operate hoisting apparatus (see the accompanying article from Pete Sheffer, NHADA Workers' Compensation Trust director, page 4).

- **Modify state law to allow sophomores to attend Career and Technical Education (CTE) classes.** A Senate Bill is in the legislative hopper.
- **Publicize the NHADA-sponsored workforce study conducted by the Community College System of NH:** Done. The *NH Business Review* crafted a great article (<http://bit.ly/2m8bh1x>).
- **Target schools, school boards,**

**principals and guidance counsellors with the message that auto tech is a great career.** This is another boots-on-the-ground effort requiring visits by local auto businesses to these schools and boards.

- **Close the auto tech training gap in Rockingham County.** Great Bay Community College is exploring how to host evening certificate training in auto technology at the Seacoast School of Technology.
- **Hire an NHADA recruiter** to help increase the pipeline flow from the 20 high school auto tech programs to the excellent community college programs.

- **Boost the usage of the NHADA job training grant.** The grant allows you to train current employees who aren't techs yet but have that potential.

NHADA members will need to take other steps to ensure and boost the workforce including volunteering to serve on the high school tech advisory board, hiring interns from the high schools and community college auto tech programs, hosting field trips from the local grade, middle, and high schools, inviting various youth groups into your store, and publicizing the positive messages about a career in the automotive world through your own social media, website and local media. 🇺🇸



# 2017 NADA Dealership Workforce Study Open for Participation

## Dealerships will receive two complimentary reports for taking part.

With a retail workforce topping 1 million and the industry poised for growth, dealerships need to focus on hiring and keeping talented employees. The NADA Dealership Workforce Study (DWS) provides one-of-a-kind analysis of dealership pay plans and benefit packages, retention and turnover, employee benefits, work schedules and demographics. It is based on actual payroll data and questionnaire responses submitted by NADA and ATD members. **The DWS is open for participation now through April 28, 2017, at <http://nadaworkforcestudy.com>.**

In return for participating in the study, dealerships will receive two complimentary reports: (1) Automotive Retail: National and Regional Trends in Compensation, Benefits and Retention and (2) a custom report, which includes comparisons of the dealership(s) to peers nationally, regionally, by state and brand. All data must be submitted by April 28, 2017. To participate in the study, go to <http://nadaworkforcestudy.com> to begin. For questions, email [WorkforceStudy@nada.org](mailto:WorkforceStudy@nada.org).


*Source:* NADA Dealership Operations

*Exporter – continued from page 13*

liquidated damages a guesstimate. As such, the trial court declined to enforce the liquidated damages clause on the basis that it did not meet the third prong of the three part test: “the amount agreed upon must be reasonable and not greatly disproportionate to the presumable loss or injury”.

**The NH Supreme Court Ruling:** Holloway appealed the matter to the NH Supreme Court, which overruled the lower court and held that the “...\$15,000 liquidated damages provision was enforceable because Holloway’s damages resulting from the breach are not ‘easily ascertainable.’” The court also rejected limiting the focus of the damages to the one-year export prohibition timeframe as MBUSA could take an adverse action against Holloway at any time after that year passes.

Of interest, the buyer cited the NH Dealer Bill of Rights (RSA 357-C) section, which prohibits a manufacturer from taking adverse action against a dealer when a consumer exports a vehicle. The Supreme Court rejected the buyer’s argument by noting that the statute’s protections disappeared when the dealer knew or reasonably should have known that the customer intended to export the vehicle. The court held that “. . . in any case in which a customer exports a vehicle, Holloway faces the risk that MBUSA will assert that Holloway knew or should have known that the export would occur...”

Finally, Holloway argued that it was entitled to attorney’s fees and court costs as set forth in the agreement. The Supreme Court agreed and sent the case back to the lower court to determine the correct amounts. 

## Auto Tech Scholarships Available

The New Hampshire Automotive Education Foundation (NHAEF) offers scholarships to NH students pursuing a career in automotive technology in any of the automotive-related programs at any of four NH community colleges.

Scholarships are available to both first- and second-year students.

We urge students to apply by visiting [nhada.com/scholarships](http://nhada.com/scholarships).

The web page lists required criteria and information, and the link at the bottom opens up the scholarship application.

If you have any questions please contact Jean Conlon, educational programs administrator, at [jconlon@nhada.com](mailto:jconlon@nhada.com) or at 800-852-3372.

## BRONZE

# F & I RESOURCES

“F&I Training and Reinsurance Specialists”



Jason Bayko



Brad Heim



Robert Hunter

For more information, please contact Jason Bayko, Brad Heim, or Robert Hunter at 508-624-4344 or visit [www.firesources.com](http://www.firesources.com).

NHADA Association Partner



### New Member

**Bob Mariano Chrysler-Jeep-Dodge, Inc.**  
 146 Manchester Street  
 Concord, NH 03301  
 228-1345  
 Brian Duval (new dealer principal)

### 2016 Unemployment Rates by Area

	Oct.	Nov.	Dec.
<b>United States</b>	4.7%	4.4%	4.5%
<b>New England</b>	3.3%	3.1%	3.2%
<b>Connecticut</b>	4.5%	3.7%	3.9%
<b>Maine</b>	3.4%	3.8%	3.5%
<b>Massachusetts</b>	2.7%	2.6%	2.8%
<b>New Hampshire</b>	2.3%	2.5%	2.5%
<b>Rhode Island</b>	4.8%	4.6%	4.5%
<b>Vermont</b>	2.7%	2.9%	2.8%

## Safety/OBD II Inspections Statistics

Safety Inspection Results	Jan '17	Percent of Total	YTD '17	Percent of Total
Total *	123,347	100.00%	123,347	100.00%
Passed	98,889	80.70%	98,889	80.20%
Corrected	12,862	10.40%	12,862	10.40%
Rejected	7,259	5.90%	7,259	5.90%
Untested	4,337	3.50%	4,337	3.50%
<b>OBD II Inspection Results (20 yrs. old and newer)</b>				
Total	111,607	100.00%	111,607	100.00%
Passed	97,329	87.20%	97,329	87.20%
Rejected	9,127	8.20%	9,127	8.20%
Untested	5,151	4.50%	5,151	4.60%
<b>* Total numbers include OBD II Inspections</b>				
<i>Statistics provided by Gordon-Darby</i>				

**NHADA Mission Statement:** *To be the voice of the motor vehicle industry by providing services, education and investment in New Hampshire's economy.*

## Title Statistics Report Ending December 2016

*New Hampshire Department of Safety, Division of Motor Vehicles*

	Current 12 Months	Prior 12 Months	% Change	Jan '17	Jan '16	'17 YTD	'16 YTD
Titles Issued for New and Demo Vehicles:	131,207	131,248	-0.03%	15,913	12,179	15,913	12,179
Titles Issued for Used Vehicles:	257,371	250,670	2.60%	28,331	24,736	28,331	24,736
<b>TOTAL TITLES ISSUED:</b>	<b>388,578</b>	<b>381,918</b>	<b>1.71%</b>	<b>44,244</b>	<b>36,915</b>	<b>44,244</b>	<b>36,915</b>
Titles Issued with a Lien:				22,736	16,849	22,736	16,849
Titles Issued with no Lien:				21,508	20,066	21,508	20,066
Salvage Titles Issued:				1,958	1,577	1,958	1,577
Salvage Tags Issued:				160	127	160	127
Titles Issued for Heavy Trucks More than 15 Years Old:				35	33	35	33
Titles Issued for Heavy Trucks 15 Years Old or Less:				165	141	165	141
Titles Issued for Trailers:				855	857	855	857
Titles Issued for Motorcycles:				658	577	658	577
Titles Issued for Motor Homes:				70	60	70	60

# Thank You 2017 NHADA Partners!

These Partners have answered the call and supported NHADA programs and events. Please consider your partners first when you need professional services for your business. To become a 2017 NHADA Partner please call Jean Conlon at 800-852-3372. Compiled February 21, 2017. Companies endorsed by the NHADA are listed first within each association partner level.

## DIAMOND

Cox Automotive

## PLATINUM

NHAD Health Insurance Trust\*  
NHAD Services, Inc- Products Division\*  
NHADA Workers' Compensation Trust\*  
STAPLES® Business Advantage

American Financial & Automotive Services, Inc.  
Gordon-Darby NHOST Services, Inc.  
TRUECar  
WMUR-TV/WMUR.com

## GOLD

Bank of America Merrill Lynch  
New Hampshire Union Leader

O'Connor & Drew, P.C.  
Service Credit Union

## SILVER

Northeast Delta Dental\*  
Albin, Randall & Bennett  
Cars.com  
Devine Millimet

Southern Auto Auction  
St. Mary's Bank  
TD Bank / TD Auto Finance

## BRONZE

Cross Insurance (bonds only)\*  
DealerDOCX\*  
Tri State Fire Protection LLC\*  
Ally  
Alpha Warranty Services  
Amy Martineau, Commercial Insurance Specialists  
Auto Auction of New England  
Auto Use  
Auto/Mate Dealership Systems  
Automotive Garage Tools (AGTI)  
Bellwether Community Credit Union  
Channel Building Company, Inc.  
Clean Harbors Environmental Services  
ConvenientMD Urgent Care  
Cook, Little, Rosenblatt & Manson, p.l.l.c.  
CUDL  
Enterprise Rent-A-Car  
ExpressMED/BOAC and Apple Therapy  
F & I Resources  
G&K Services  
GH Berlin/Windward

Holmes Law Offices PLLC  
Horsch/Lappen's Garage Equipment  
Huntington National Bank  
iHeart Media from Clear Channel  
JM&A Group  
Jewett Construction Co. Inc.  
KeyBank  
MacPage LLC  
MiCorp Custom Auto & Truck, LLC  
Mike's Equipment Repair  
Nancy Phillips Associates, Inc.  
NBT Bank  
Northeast Dealer Services  
Resources Management Group  
Sanel Auto Parts Co.  
Santander Bank  
Steward Partners Global Advisory  
Sullivan Tire Inc.®/Lift Works Corp.  
The River Radio Network  
TR2 Corp/LSI Industries

# America's Largest Independent Auction

20 Lanes | 4,000 Vehicles | Every Wednesday | Since 1947



**Tim MacIntyre**  
Dealership Representative  
860-422-3620  
tmacintyre@saa.com



**Joe Derohanian**  
Sales Manager  
860-539-0967  
jderohanian@saa.com



161 South Main Street • East Windsor, CT 06088 • saa.com