



Montana Automobile Dealers Association

AUGUST 2020 NEWS BULLETIN

PRESIDENT'S MESSAGE:

100 Days Until November Election

With less than 100 days until November's federal elections, control of Washington hangs in the balance. Besides the Presidential race between President Trump and former Vice President Joe Biden, the makeup of the House and Senate will affect the national agenda in 2021. Key races in Montana could play a big role in how Congress will look in 2021.


In the Senate, Republicans are fighting to hold their Senate majority, currently a margin of 53 to 47. Republicans are

defending 23 seats in 2020, while Democrats only have 12 seats to defend. Many of these races are occurring in Presidential battleground and are being fiercely contested. The Cook Political Report rates 15 of this year's 33 races as competitive or potentially competitive; 13 of these seats are held by Republicans.




James Johnson
MTADA President

Continued on **PAGE 9**

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Introducing our New Health Insurance and Benefits Consultant

I have served the Montana Automobile Dealers Association Group Benefits Trust since 2014 through their partnerships with EBMS and VezaHealth. Over the years, I have witnessed the sacrifices made by its members and the dealerships while the Trust Board made impossibly difficult decisions in the battle against the rising cost of health care. I have nothing but the upmost respect for each of you because of it.

It is also why, impart, I am thrilled to be your chosen, endorsed insurance consultant for the Group Benefits Trust, as well as your dealership's benefits program of choice. My business, Aligned Business Solutions, was created with the sole purpose of serving Montana dealerships.

So, what can you expect from me?

First, I have been visiting and introducing myself to each dealership and will continue to do so through the end of August. I want to know more about your employer-sponsored health insurance and what you have liked, as well as not like about it. What I am finding is many dealerships are not being presented all the options they have available to them. I am also finding some frustrations with the renewal process and limited scope of service and support from their insurance brokers. All concerns I have heard to date, are matters I can address.

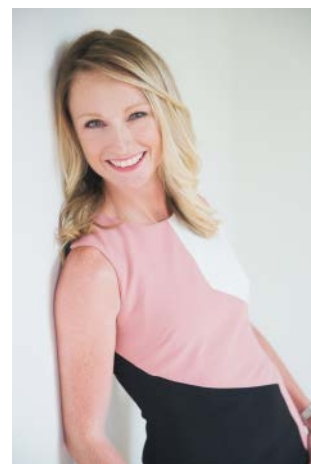
Second, if you are in the Trust, your members and human resources team members have been notified of my services and can now contact me with any challenges or questions they may have. In early September, I will present each of you with the Trust's renewal rates, enhancements to our offerings, along with proposed dates and times for me to talk it through with you. I will also be visiting your dealership during open enrollment and multiple times throughout the year.

If you are not in the Trust, I would like the opportunity to earn your business. As you read above, your peers will be receiving their health insurance options in September. If you too want to begin reviewing insurance options before November and December, please know you can contact me at any time so I can do that for you. Additionally, by selecting me as your benefits broker you will not only receive my objective, professional services but you will also be further supporting the Association. The Montana Automobile Dealers Association has its agency license as well and will work alongside me to ensure each dealership is getting the best benefits specific to their needs.

Stay healthy. Stay in touch.

Erin Jimison

MTADA's Endorsed Insurance Consultant



Contact

Erin Jimison

Insurance Consultant

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ERIN JIMISON

Insurance Consultant for the MTADA

DIRECTOR'S MESSAGE:

Data Security and Privacy: What Dealers Need to Know

Dealers today must assess not only their own ability to comply with a complex regulatory and data security landscape, but also that of their vendors and other service providers. Increasingly stringent data security and privacy laws mean that technology providers will play a critical role in meeting these requirements for dealerships.

In the Lifeline Series webinar, Navigating the Current Data Security and Privacy Landscape, Brad Miller, NADA director of Legal and Regulatory Affairs, and Mike Trasatti, CEO of DealerBuilt, highlighted the shifting landscape of privacy requirements for business owners and how all dealers can implement data best practices.

Keeping customer information secure has always been a top priority for dealers, but with both state and federal changes increasing the regulatory burden, they must continue to innovate and stay ahead of tomorrow's curve to ensure their customers and businesses are protected. Miller and Trasatti emphasized that business owners must continue to implement reasonable technical, physical and procedural safeguards to guard against potential cybersecurity threats and meet the requirements of the FTC Safeguards Rule to

secure and protect sensitive consumer data.

In addition, a series of recently proposed changes to the FTC's Safeguards Rule could present massive new requirements and unreasonable costs for dealers. If approved, the amended rule would require dealerships to adopt specific technological standards, including: encrypting customer information; multi-factor authentication; and hiring a chief information security officer (CISO) to oversee information security and report to its board of directors. These mandates would lead to significant compliance costs—a one-time, up-front cost of \$293,975 and an average annual cost of \$276,925 for the average dealer.

Miller outlined these proposed changes and NADA's recent efforts to moderate the FTC's position. Trasatti provided details of his company's experience with federal regulators and offered tips for dealers to ensure they are prepared for future challenges. As Miller and Trasatti pointed out, regardless of how the proposed FTC rule ultimately comes

Continued on **PAGE 15**



Don Kaltschmidt
NADA Director



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CHAIRMAN'S MESSAGE:

2021 NADA Show the Most Important Yet

Each year dealers from coast to coast, as well as some from across the globe, join together at the NADA Show. The NADA Show is the Auto Industry Event of the Year and offers dealers and their teams the opportunity to learn the latest changes in the auto retail industry and explore shifts in the business environment to maintain dealership success. As all dealers are learning to navigate our business operations during the disruption brought with the coronavirus pandemic, attending the upcoming 2021 NADA Show in New Orleans will be more critical than ever before.

This is truly an unprecedented time; never before have dealers faced business hardship concurrently with a health pandemic. We need to further educate ourselves on how to manage this disruption and learn best practices for business success in an ever-changing environment. And NADA Show 2021 in New Orleans is the place to do it!

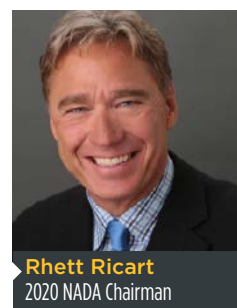
We are still learning the true impact of the pandemic to the economy, to our industry and to our businesses. While

I am optimistic for a quick recovery, I don't foresee full recovery by the time NADA Show takes place in January. We will need to leverage the expertise of our NADA staff and third-party vendors to refine the changes to our businesses.

We have all been in the trenches during this pandemic adjusting our processes, business plans, balance sheets and inventories—gathering best practices along the way. These valuable insights from the trials and tribulations of operating during the last three months will be just one of the many pieces dealers can learn in the three days of NADA Show. I encourage you all to attend and share these takeaways with your fellow dealers.

Please know that safety is our priority for the Show, and NADA is working through a detailed action plan to address social distancing concerns for members, attendees, exhibitors and show partners. For example,

Continued on **PAGE 10**



Rhett Ricart
2020 NADA Chairman

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NADA PRESIDENT

THANK YOU!

In early March, fear and panic began gripping America. As the coronavirus quickly spread across our country, the stock market plunged, and businesses scrambled to figure out how to respond. As schools and businesses closed, the U.S. economy went into a tailspin. In the last week of March, new-vehicle sales dropped 59%, and America's new-car and -truck dealers faced severe liquidity concerns not seen since the Great Recession of 2008-09. As a result, many of our members confronted the dreaded prospect of having to lay off valued employees.

Panics are not uncommon in U.S. history, but the speed at which the coronavirus pandemic impacted life in America, and across the globe, was stunning.

Amid these unparalleled events, Congress and the Administration acted decisively by enacting a series of broad-based economic stimulus packages. The centerpiece was the CARES Act, which contained a lifeline for dealership employees: the Paycheck Protection Program (PPP).

Different from previous, more diffuse stimulus tools, the PPP delivered needed relief to working men and women through forgivable loans to businesses, contingent on those businesses retaining or rehiring furloughed employees. Most new-car and -truck dealers are local, family owned small businesses that prior to the pandemic employed more than 1.1 million people nationwide in good-paying jobs with opportunities for advancement. The PPP was not only a lifesaver, but it also was an extraordinarily successful measure to keep our employees at work in the face of plummeting vehicle sales.


Under the PPP, at least 60% of the loan proceeds must be used for payroll expenses—with the rest going to a set of approved

expenses, including mortgage or rent payments, utility bills, etc. For the typical dealership, this 60% threshold will be easy to hit because payroll is historically one of our members' largest expense items. In fact, we expect that many, if not most, dealerships will use 100% of their PPP loans for payroll. The data is already bearing this out. We saw dealership employment bounce back dramatically in May, once PPP loans kicked in.



Peter Welch
NADA President and CEO


Continued on **PAGE 7**



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LEGAL UPDATE

MONTANA Lemon Law

The following summary of Montana's Lemon Law is taken from Attorney General Tim Fox's website. Although dealers are generally right in the middle of lemon law claims, resolution of those claims is the obligation of the manufacturer and involves an administrative process supervised by the AG's office. The following information can be provided to your affected customers or you can refer the customer to the AG's website. The website link is provided at the end of this article.

The Lemon Law covers:

- vehicles purchased, titled or leased in Montana, provided they are less than two years old and have 18,000 miles or less on the odometer. Motorcycles and the chassis of qualifying motor homes are included.
- substantial defects that impair the use, market value or safety of the vehicle

The Lemon Law does not cover:

- vehicles purchased for business use
- vehicles over 10,000 lbs. GVW
- non-motorized and off-road vehicles
- the "residential" portion of motor homes
- defects resulting from accident, abuse, neglect, modification or alteration by anyone other than the manufacturer or authorized dealer

Warranty Period:

The warranty period ends two years after the date of the vehicle's original delivery to the consumer, or the first 18,000 miles of operation, whichever occurs first. This period can be extended for up to a year if a defect is reported, in writing, to the dealer or manufacturer during the warranty period but has not been cured by the expiration of the period.

Required Documentation:

Keep all records of warranty repairs and all written communications with dealers and manufacturers. Work orders provide the best proof as to when a problem was first reported.

To prove that a vehicle is a lemon, be prepared to produce:

- all purchase (or lease) documents
- all maintenance records
- all repair orders

- receipt for maintenance supplies
- certified letter of notification to the manufacturer (copy)
- any and all other documents relating to the defect



R. J. "Jim" Sewell, Jr.
MTADA General Counsel

The Lemon Law Process:

Notify the manufacturer. If the problem is a substantial defect or condition that recurs or still exists after the third repair attempt, notify the manufacturer by certified mail, return receipt requested, of the need to repair the defect or condition on the fourth attempt. This notification procedure is not required under the Lemon Law but does serve as notice to the manufacturer of your intentions.

If the manufacturer fails to correct any substantial defect or condition following your written notification, the manufacturer must either refund the full purchase price – plus any reasonable expenses directly incurred because of the vehicle's condition – or provide an identical or reasonably similar replacement vehicle. If the vehicle is bought back, the manufacturer can deduct an amount for the use of the vehicle calculated based on the odometer reading at the time of repurchase.

Time Limits:

A Lemon Law claim arises from violation of a state law, so the time to file the claim is within two years. Mont. Code Ann. §27-2-211(a). The Montana Department of Justice has approved a filing period of one year after the earlier of (1) two years after original delivery to a consumer, or (2) the first 18,000 miles of operation. It may be that a lemon law claim can be filed as late as within 2 years of the expiration of that period under *Vader v. Fleetwood Enterprises, Inc.*, 2009 MT 6, 201 P.3d 139, 348 Mont. 344 (Mont. 2009). The customer should promptly contact legal counsel regarding this issue if that time frame has or is about to expire.

If you think your customer may be entitled to a refund or replacement and the manufacturer is unwilling to provide either remedy, advise the customer they must first submit the dispute to the state-certified dispute settlement program approved by the Montana Department of Justice. Contact the Office of Consumer Protection for further assistance. Contact information is available on the Montana Attorney General's website <https://dojmt.gov/consumer/vehicles-and-lemon-law/>. ■

NADA President Message CONTINUED FROM PAGE 5

For dealership employees, the PPP kept food on the table and helped pay household bills. It also provided peace of mind.

The economic benefits of dealership payrolls also reverberated broadly through our economy, supporting myriad other local businesses and the people they serve. The loss of dealership payrolls during this time would have dramatically increased the severity of the downturn in communities across the country.

PPP loans have delivered for countless employees across the nation who were the intended beneficiaries. This bipartisan measure may go down in history as one of the most cost-effective stimulus measures ever deployed. In our industry,

the PPP helped stabilize local businesses that are essential to a national economic recovery. Auto retailing provides more than 1 million good-paying jobs, accounts for 18.8% of all U.S retail sales, and annually generates over \$90 billion in much-needed state sales tax.

The pandemic is not over and there are still steep hills to climb. But the footing for dealership employees, who provide critical infrastructure services that keep America's cars and trucks on the road, has been made more secure by the PPP.

On behalf of tens of thousands of dealership employees in thousands of communities across America: THANK YOU! ■

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American Fidelity Assurance Company provides a full suite of expense management services that can help you and your employees maximize tax savings and manage costs associated with various benefits. We specialize in providing employer administrative services for all of our services, which can easily coordinate with existing plans.

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President's Message CONTINUED FROM PAGE 1


One seat that Cook rates as a tossup is the race between Senator Steve Daines (R) and Governor Steve Bullock (D). The race was not seen as competitive until Bullock entered at the filing deadline; now many polls see the race as extremely close, with the potential to flip the Senate to Democrats if Bullock wins.

In the House, Democrats hold a 232-198-1 advantage, with Republicans needing to net 18 seats in November to take control of the House. There are many competitive races around the country, with Republicans focused on freshman Democrats in districts Trump won in 2016, while Democrats are playing offense in suburban districts held by Republicans. Cook sees as many as 90 seats as in play to change partisan control.

The open House seat being vacated by Greg Gianforte (R) is rated as "lean Republican" by Cook. While state auditor Matt Rosendale (R) is favored given the historical partisan lean of Montana, former state rep. Kathleen Williams (D) came within five points of Gianforte in her 2018 House race. With both candidates fundraising well, this race is likely to stay on both parties' radars through November. ■

James Johnson is the Dealer Principal at High Plans Motors, Inc. in Wolf Point, Montana



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Chairman's Message CONTINUED FROM PAGE 4

NADA will provide face masks upon entry to any attendee or exhibitor who requests one; no-contact registration will be available; and more space will be available on the expo floor, as well as in the show's educational sessions, general sessions and franchise meetings to allow for social distancing. We are very fortunate to be holding the 2021 Show at the Ernest N. Morial Convention Center in New Orleans, one of the largest facilities in the United States with more than a million square feet of space. The space will allow all dealers to attend safely while providing us the ultimate flexibility in adjusting everything from the expo floor to the meeting spaces as needed.

For our truck dealers, while the ATD Show will not be held this year, I invite all ATD members to attend the NADA

Show and take full advantage of everything NADA has to offer including its educational workshop sessions, action-packed exhibit hall, and general sessions with inspiring keynote speakers.

I simply can't stress the importance of the upcoming NADA Show more. Now is the time for us to learn from the experts at the Show and from each other. Mark your calendars for the most important NADA Show you will ever attend. Your attendance is vital. Attendee registration and housing will open July 20, 2020. ■

To learn more about our new chairman, visit this link <https://www.nada.org/Ricart/>



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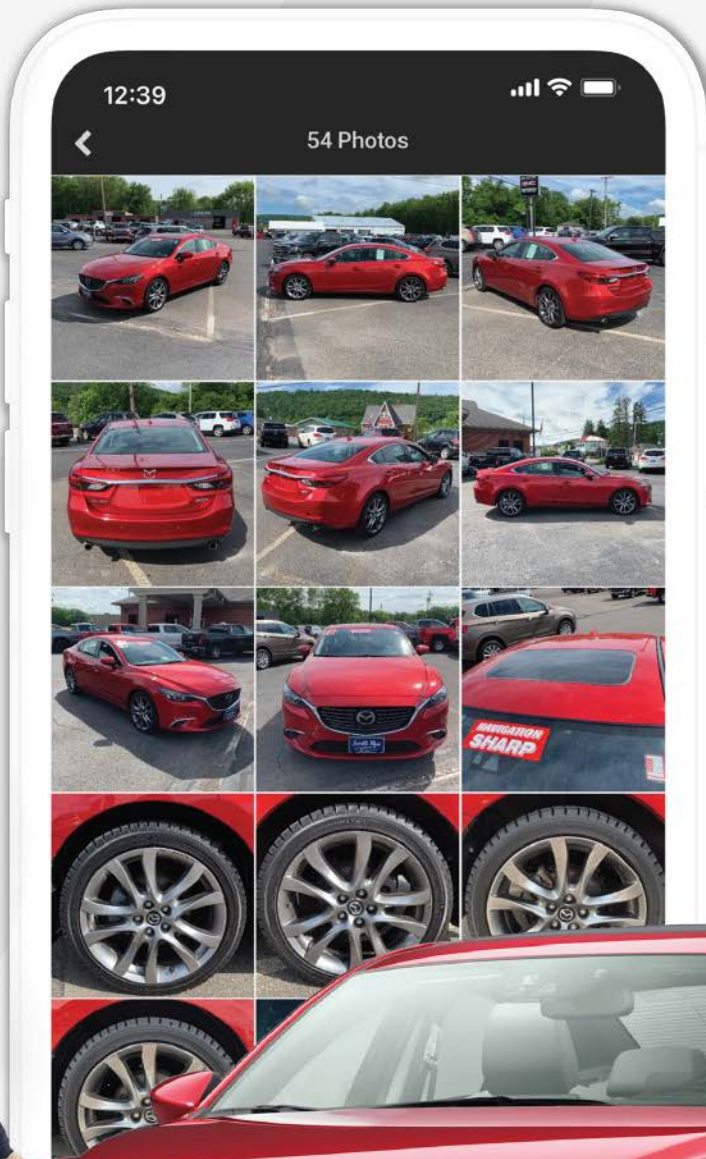


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ACCOUNTING RECORDS

Accounts payable ledgers and schedules	Permanently
Annual domestic corporate filing report	Permanently
Annual inventory records	7 years
Audit records	Permanently
Bank reconciliations and statements	7 years
Bills of lading	7 years
Cancelled checks	7 years
Cash receipt and disbursement journals	Permanently
Check copies: asset purchases, tax payments, special contracts	7 years
Credit memos	5 years
Credit applications: denied	5 years
Duplicate deposit slips	7 years
Expense ledgers	7 years
Expense reports	7 years
Factory warranty audit documents	3 years
Financial statements	Permanently
Fixed asset acquisition and disposition records	Permanently
Fixed asset depreciation schedules	7 years
General ledger and journal	Permanently
Interdepartmental sales journal	7 years
Mortgages and notes	Permanently
New vehicle sales journal	7 years
Notes receivable ledger	7 years
Parts and service sales journal	7 years
Parts sales invoices	5 years
Payroll records and journal	7 years
Petty cash vouchers	7 years
Petty cash summary envelope	5 years
Prepaid and accrued expense journals	7 years
Purchase orders	7 years
Receipts for cash and other office receipts	5 years
Receiving reports	1 year
Sales invoices	7 years
Salespeople's commission reports	3 years
Subsidiary ledger	7 years
Trial balances	Permanently
Year end schedules	5 years

DEALERSHIP RECORDS

Car deal folders	7 years
Credit applications	3 years
Customer files	7 years
Internal repair orders	5 years
Odometer statements	5 years
Retail installment contracts	10 years
Service contracts and extended warranties	10 years
Vehicle invoices	7 years
Vehicle purchase orders	7 years
Dealer license data	Permanently
Demo vehicle files	7 years
DMV report of sales books	7 years
Internal repair orders	5 years
Repair estimates	3 years
Repair orders	7 years
Service history	5 years
Shipping and receiving reports	5 years
Underground storage tank testing and DNR correspondence	Permanently
Uniform hazardous waste manifests	3 years
Vehicle parts and sundry invoices	7 years
Vendor's invoices	7 years
Vouchers for payments to vendors and employees	7 years
Warranty, incentive, and rebate submission documents	7 years

INSURANCE RECORDS

Accident reports	7 years after settled
Insurance claims	7 years after settled
Insurance policies	7 years after exp.
Worker's compensation: proof of coverage	Permanently

LEGAL RECORDS

Business license and underlying computations	7 years
Capital lease agreements (equipment)	7 years
Capital stock book	Permanently
Construction contracts	Permanently
Contracts and leases	7 years
Corporate minutes, by-laws, and other records	Permanently
Correspondence: general	7 years
Correspondence: legal and tax related	Permanently
Deeds and easements	Permanently
Emergency action plans: evacuation	Permanently
Environment site test results and cleanup reports	Permanently
Fire inspection reports	6 years
Flooring agreements	5 years
Litigation papers	Permanently
OSHA records	7 years
Partnership and shareholder agreements	Permanently
Property appraisals by outside appraisers	Permanently
Purchase agreements: bills of sale, buy/sells, etc.	Permanently
Registrations: patents, copyrights, and trademarks	Permanently
Safety reports	10 years
Stock option records: expired	Permanently
Truth in lending, evidence of compliance	5 years

PERSONNEL RECORDS

Disability and sick benefit records	7 years
Employee handbook	Permanently
Employee required notifications	Permanently
Employment agreement and personnel contracts	7 years
Employment applications: terminated/not hired	3 years
Payroll timecards	7 years
Personnel files	7 years after term.
Retirement and pension records	Permanently
Worker's compensation claims	7 years

TAX RECORDS

Blueprints for facilities	Permanently
Business valuation reports	Permanently
Charitable contribution receipts	Permanently
Employee tax liens	3 years
Excise tax returns	7 years
Form 970 – LIFO election	Permanently
Form 3115 – Change in accounting method	Permanently
Form 8300 – Report of cash payments over \$10,000	7 years
Income tax return workpapers	Permanently
Income tax returns: federal and state	Permanently
Information returns	Permanently
IRS audit results	Permanently
LIFO calculations and supporting invoices	Permanently
Payroll tax returns	7 years
Personal property tax statements	7 years

Disclaimer: This publication is designed to provide general information regarding the subject matter covered. It is not intended to serve as legal, tax, or other financial advice related to individual situations. Because each individual's legal, tax, and financial situation is different, specific advice should be tailored to the particular circumstances. For this reason, you are advised to consult with your own attorney, CPA, and/or other advisor regarding your specific situation.



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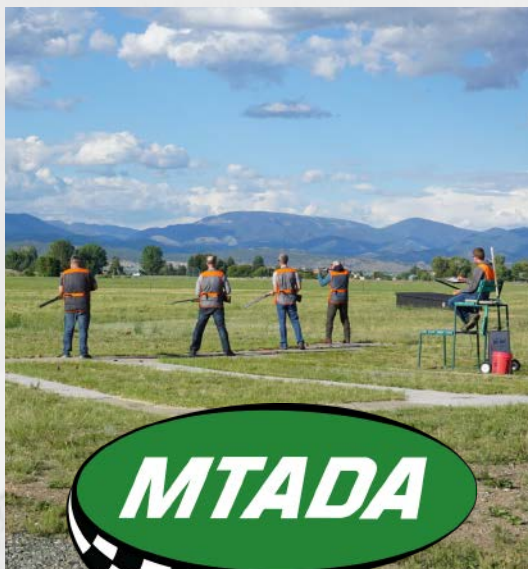
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**Montana Automobile
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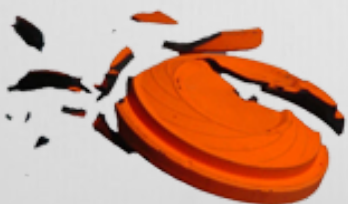
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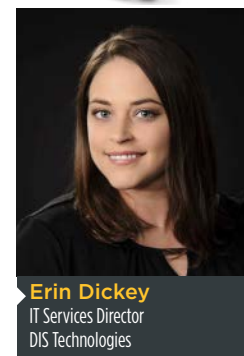
IT Security Tip #188: Office 365 Phishing Attacks Use Fake Zoom Alerts

Microsoft Office 365 users are being targeted by a new phishing campaign using fake Zoom notifications to “warn” people that their Zoom accounts have been suspended, with the end goal of stealing Office 365 logins. These phishing campaigns impersonating automated Zoom account suspension alerts have landed in over 50,000 mailboxes based on stats provided by researchers at email security company Abnormal Security, who spotted these ongoing attacks.

“The importance of Zoom as a communications method is essential in a world under the shadow of the COVID-19 pandemic,” Abnormal Security explained. “Thus, the user may rush to correct their account, click on the malicious link, and inadvertently enter credentials on this malicious website.”

If the victim falls for the attackers’ tricks, their Microsoft credentials will be used to take full control of their accounts and all their information can later be used as part of identity theft and fraud schemes such as Business Email Compromise (BEC) attacks.

If you would like to know more about protecting your business and your identity from cybercriminals, email us at info@dismt.com or call our DIS helpdesk at 866-293-9359. Stay well! ■



Erin Dickey
IT Services Director
DIS Technologies

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Director’s Message CONTINUED FROM PAGE 3

out, dealers will need to work more closely than ever with technology vendors and OEM partners. And all parties should be acting now to ensure that their technology vendors can meet the new requirements.

Dealers can tackle this regulatory challenge by implementing new processes and practices; bolstering in-house expertise with personnel who are well-versed in data security; and amending and updating contracts. Above all, dealers must exercise due diligence in selecting the right service providers, ensuring that required contract provisions are in place, and then auditing those providers to ensure compliance with the contractual promises.

Overall, Miller suggested 10 steps that all business owners should take today:

NADA will continue to advocate for reasonable and flexible regulatory requirements to ensure strong and agile data protections. However, it is clear that data security

and privacy requirements are increasing in scope and complexity for dealers. The potential changes to the FTC’s Safeguards Rule reinforce the need for ongoing partnerships among dealers, service providers and NADA so that regulatory requirements are met and consumer data is secured.

Note: NADA’s webinar is offered to assist its dealer members in the operation of their dealerships and for general informational purposes only. Each dealer must seek their own legal counsel and make their own independent business decisions and work with their attorneys to ensure advertising and data security comply with state and federal consumer protection laws. The presentation of this information is not intended to constitute legal advice. ■

Dealer Checklist When Completing Paperwork Permits



- ✓ Ensure you have the most current title prior to selling the vehicle
- ✓ Understand if the vehicle is branded in Montana or other states
- ✓ Ensure the information on the title is correct. Check VIN and mileage on the traded vehicle, when applicable, and the vehicle being sold.
- ✓ VIN check through the TRP service for Montana titled vehicles <https://app.mt.gov/trp/login>
- ✓ NMVTIS check for out of state titled vehicles <https://www.vehiclehistory.gov/index.html>
- ✓ Verify there is no outstanding Temporary Registration Permits (TRPs) prior to selling the vehicle
- ✓ VIN check through the TRP service <https://app.mt.gov/trp/login>
- ✓ If a TRP exists, contact dojmvdrbrmt@mt.gov for assistance
- ✓ Ensure that titling documents follow proper chain of ownership/ reassignment
- ✓ Application for Certificate of Title for a Motor Vehicle (MV1)
- ✓ Common missed items:
 - Color
 - Weight for vehicles
 - Length for trailers
 - Dates (application date, sale date)
 - Customer information (Driver license number, email address, phone #)
 - Odometer when applicable
- ✓ Section D of the MV1 should only be completed if the dealership is not the applicant
- ✓ Have the purchaser sign the MV1 so this step is already complete when paperwork reaches county office
- ✓ Title Only
- ✓ If you are requesting a dealer title in your dealership name, make sure both names (corporate and DBA) appear on the titling documents.
- ✓ Notary
- ✓ Titles must be notarized if an individual is selling to an individual, even if multiple owners exist as seller or as purchaser.

TRP

- ✓ Make sure to file the customer's security interest (i.e., lien) within the TRP service
- ✓ Make sure to void a TRP from the TRP system when a sale is cancelled
- ✓ Make sure to void for the appropriate reason
- ✓ See TRP void instructions on MI site <https://app.mt.gov/trp/login> ■

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