



# Montana Automobile Dealers Association

## JUNE 2020 NEWS BULLETIN

### PRESIDENT'S MESSAGE:

## Why Contribution to MONCAR Is Important.

As you know, MONCAR, your Montana political action committee, has been a significant participant in past Montana Legislative races and Legislative Sessions. Our strength has come from both the monetary and grassroots support from members of our association! For your support we thank you.

The last two sessions have shown how much of an impact your support has given us. In **2019** Governor Bullock signed our bill (HB 617) that will protect dealers from overreaching and unfair business agreements by the automobile manufacturers.

### HB617

**Data Protection:** Recognizes that dealers collect information from their customers and store that information in electronic data management systems and regulate the manner in which

third parties can access and use the information.

**Repurchase Obligations of OEM's on cancellation of franchise:** Clarifies the manufacturer's obligation to the dealer whose franchise agreement is canceled for any reason.

**Dealer Successor:** Adds retirement of the dealer to the circumstances where a manufacturer is required to honor the designation of a family member as successor dealer.

**Adding an Additional Dealership:** Revises the procedures allowing a manufacturer to add an additional franchise in a community where it has an existing dealer.



**James Johnson**  
MTADA President

Continued on **PAGE 7**

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## DIRECTOR'S MESSAGE:

# What Is Nada Doing to Help Dealers Navigate the Covid-19 Crisis?

In these uncertain times, it is nice to know that you have people in your corner. When our world has been turned upside down, with abrupt shutdowns of all nonessential business, stay-at-home orders in state after state, anxiety, confusion and questions about the health of our family and friends, layoffs, government stimulus requirements and so much more, we need to know who to turn to and who to trust.

MTADA has been supporting our Essential dealers throughout this pandemic and will continue to do so after. Our efforts to keep you informed, educated and updated have not gone unnoticed. As your association continues to advocate for you, remember to support them in return.

NADA has also been incredibly active in its support of dealers during the COVID-19 pandemic. They have been advocating for dealers and helping them navigate the financial assistance opportunities available, including those in the Coronavirus Aid, Relief and Economic Security (CARES) Act.

NADA has also launched a Coronavirus Hub, a special webpage designed to keep dealers current on Coronavirus developments. You can view all the updates on our website at <https://www.mtada.com/covid-19-updates/> along with local and state updates.

## Here are a few things that the NADA has been doing:

### Government Advocacy

Under this section, you find information on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Paycheck Protection Program, Employee Retention Credits available to dealers, The Families First Coronavirus Response Act (FFCRA), provision to help profile liquidity for dealerships,

NADA lobbying efforts and more.

### Regulatory Compliance

This section of the website offers Small Business Administration (SBA) guidance on a variety of issues, including information on applying for SBA business loans. Users can also find guidance on the Emergency Employee Leave mandate and the Temporary Paid Sick and FMLA leave expanded benefits, as well as Department of Labor guidance, comprehensive FAQs on various issues, and more.



Continued on **PAGE 14**



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## CHAIRMAN'S MESSAGE:

# Our Manufacturers Need Us More Than Ever

In my very first speech as your NADA Chairman in February, I talked about corruption, obstruction and disruption to the auto retail industry. With the coronavirus pandemic, our country got a big dose of disruption, and it's the kind of disruption that has trickled down to every person, industry and business. We are all facing challenges as we learn to operate in a new business environment, but with that comes the opportunity to adapt and take our industry into a new era. The COVID-19 pandemic has opened a greater dialogue between automakers and dealers, and we cannot miss this chance for the advancement of the industry that many of us have spent our lives building.

Like everyone else, our OEM partners are struggling to find the right formula to operate in this new normal and become profitable again. As retailers, we are learning how to enhance our digital retailing capabilities and to keep

our employees and customers safe as we reopen our doors. Automakers likewise are re-starting vehicle manufacturing facilities with safety protocols and plexiglass partitions to protect thousands of their workers. While our challenges vary, they all impact the broader industry that lives under one roof. Now is the time for us to unite our industry efforts.

The car-buying experience is changing, consumer expectations are evolving, and digital retailing has increased significantly. So automakers have their ears wide open and are willing to listen to dealer input more than ever. Dealers need to seize this opportunity and strengthen their bonds with OEM partners. We know that we are the secret sauce for automakers to distribute and sell their products in the United States.



**Rhett Ricart**  
2020 NADA Chairman

Continued on **PAGE 8**

## RETAIL WARRANTY REIMBURSEMENT

Only one player knows all the moves and how to pick a winning strategy every time

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## LEGAL UPDATE

### DON'T FIDGET WITH THE DIGITS (Revisited)

A while back we reported on a Federal Trade Commission complaint against the Tate Auto Group of AZ – NM for "... fidgeting with the digits. . ." as an editorial writer on the FTC website noted. The FTC alleged that in many instances, Tate's fidgeted with the digits to make it look like customers had higher monthly incomes and bigger down payments than they really had. According to just one of the examples in the complaint, a consumer told Tate's she had a fixed monthly income of about \$1,200, but a Tate's staffer allegedly inflated it to \$5,200. The FTC also alleged that Tate's engaged in deceptive advertising.


Then there's the online ad where the company touted an "incentive" discount of \$5,250. But buried behind multiple hyperlinks was the fact that the discount was available only to consumers who trade in a 1995 or newer vehicle or terminate a lease from another car company 30 days before or 90 days after delivery.

Automotive News reported in May 2019 that after years of financial problems, battles with lenders and FTC accusations of deceptive business practices culminated in a March 2019 bankruptcy filing, Tate's closed. It was trying to continue operating while it sought a buyer for its four stores in Arizona and New Mexico. But with a federal bankruptcy judge poised to cut off the cash it was using to stay in business, the retailer laid off employees and shuttered its stores the last week of April 2019.

The issue was back the news again this week. Santander Consumer USA, the nation's largest subprime auto financing company with a presence in Montana reached a 550-million-dollar settlement with 34 state Attorneys General over allegedly shady subprime auto loan practices according to an article in the New York Post on May




Continued on **PAGE 5**



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COX AUTOMOTIVE

## Legal Update CONTINUED FROM PAGE 4

19, 2020. Santander allegedly violated consumer protection laws in targeting buyers who were more likely to default for risky loans, according to court papers. Santander agreed to pay \$65 million in restitution to subprime consumers — people who don't have adequate credit scores or histories — who defaulted on loans between Jan. 1, 2010, and Dec. 31, 2019, New York Attorney General Letitia James announced. The AGs began an investigation into the company in March 2015 after receiving a large number of consumer complaints, James' office said. In addition to pushing the risky loans on applicants likely to default, Santander allegedly turned a blind eye to dealerships that let consumers "fidget with the digits," the numbers on loan applications about their income and expenses, including

mortgages and rent costs, taking a page out of Tate's playbook.

Under the settlement, Santander will no longer allow problem dealerships to waive proof of income and expenses by applicants. "Santander defrauded desperate consumers by placing them into auto loans the company knew these customers could never afford to pay, resulting in defaults and negative ratings on consumers' credit reports," James said. "This settlement will not only provide much needed relief to struggling borrowers but will ensure Santander's dishonest behavior is put to an end immediately"

*Some folks are apparently slow learners. ■*



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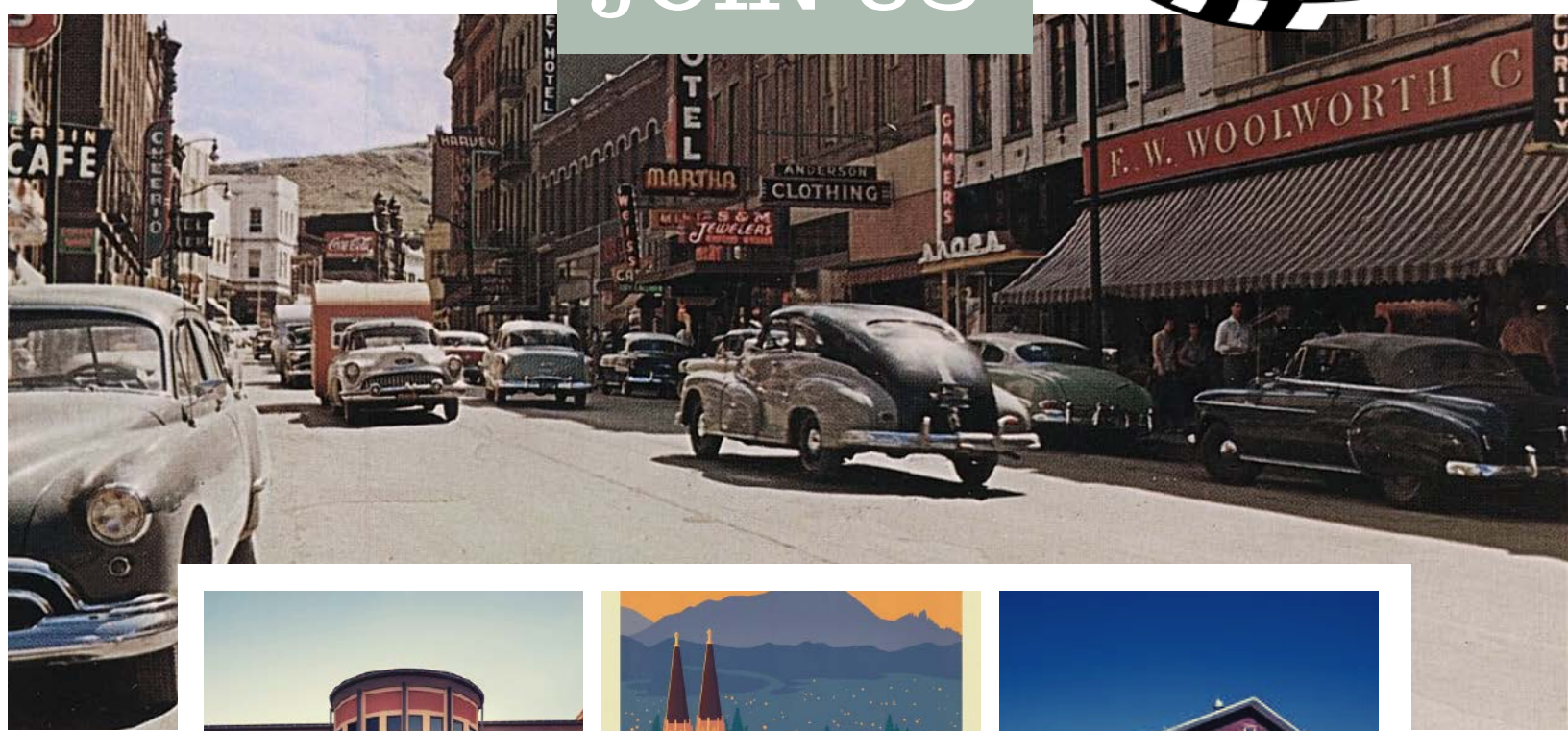
  
Montana Automobile  
Dealers Association

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# 106th Annual Family Convention



November 14-16, 2020

Helena, Montana



Please join us for the 106th Annual Family Convention! There are great opportunities to make connections and learn from our wonderful sponsors, exhibitors, and members.

We also have some great speakers including Nathan Mellor, and Michael Burger.

To get more info and to register, please visit our website

[mtada.com](http://mtada.com)

## President's Message CONTINUED FROM PAGE 1

**Warranty Reimbursement:** Creates a method to establish the reimbursement rate paid to dealers for warranty parts and labor required by the manufacturer's vehicle warranty and vehicle recalls issued by the manufacturer or the U.S. government.


At the end of the **2017** legislative session, Governor Bullock signed two very important bills (SB 89 and SB108) that protect dealers from overreaching and unfair business agreements.

**Senate Bill 89** is an act revising standards for determining good cause in terminating or not continuing a new motor vehicle franchise. This bill was passed in order to prevent manufacturers from arbitrarily terminating a dealership due to unattainable sales goals based on sales areas outside of their local market. Manufacturers now have to have sales goals that are essential, reasonable, not discriminatory, and that take into account the franchisee's local market variations beyond adjusting for the local popularity of general vehicle types.

**Senate Bill 108** prohibits enforcement of a right of first refusal. Passed to ensure that selling dealers are able to sell their dealership to a well-qualified individual of their choice, selling dealers now have the right to sell to a qualified individual of their choice without fear of the manufacturer swooping in at the last minute and giving the deal to another buyer. This also applies to a dealer

In order to remain an influential Montana PAC this upcoming legislative cycle, it is imperative that as members of MTADA we contribute to the MONCAR fund. Our continued legislative success in protecting our business interests is vital to an auto dealer's way of life.

Continued on **PAGE 10**



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## Chairman's Message CONTINUED FROM PAGE 3

The 2021 NADA Show in New Orleans will be the most important NADA Show you ever attend. As dealers, we need to further educate ourselves on how to manage this disruption and learn best practices for business success in an ever changing environment. Make meetings at the Show will be more critical than ever to discussing with our OEM partners how we navigate through this new environment and move forward as an industry. We need to demonstrate our focus, our readiness and our strength to the entire dealer body and to the industry as a whole. Your attendance is vital.

While many of you are laser focused on the survival of your own businesses, it is prudent that you stay involved with NADA and your state and local associations. Stay involved by providing your ATAEs with guidance and on-the-ground insight that will help as they craft policies and legislation to address operations during coronavirus. Your involvement is as important as ever.

Don't forget, a united auto industry is a strong auto industry! ■

*To learn more about our new chairman, visit this link*

<https://www.nada.org/Ricart/>

## Manage Costs by Maximizing Your Tax Savings.



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.

Our expertise and experience in offering these services allow us to make recommendations on the programs that will work best in your specific situation. Also, we will explain how we can implement these cost-saving programs for you and your employees.

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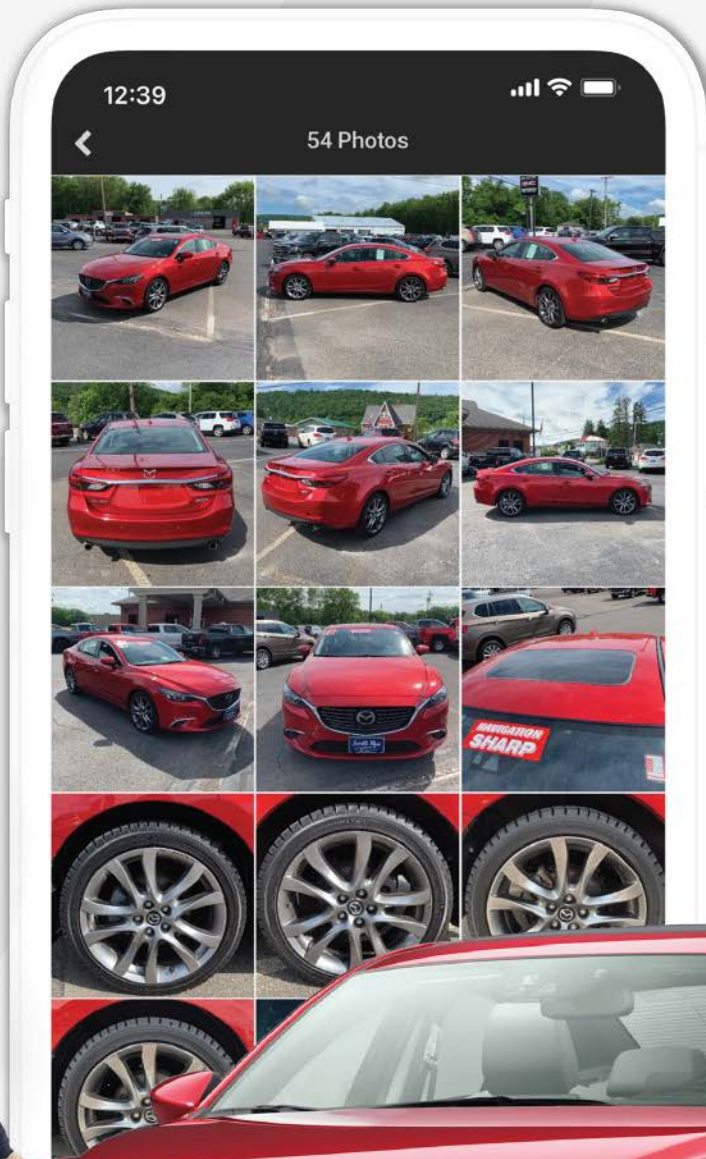


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## President's Message CONTINUED FROM PAGE 1

when purchasing a dealership. We are only the sixth state to get this legislation passed.

This year the Governorship, Senate seat, Congressional seat, State Auditor, Secretary of State, Attorney General and the Superintendent of Schools are all up for reelection. This will be a very important election cycle. Montana's auto dealers' interests need to be kept in legislator's minds on Capitol Hill, so I ask that you make a personal contribution to MONCAR.

A letter from the association with a donation form was just recently sent out in the mail. Please write a personal check for \$250 to MONCAR and return it to MTADA, 501

N. Sanders, Helena, MT 59601. You can also contribute by using a personal credit card by calling Debbie Jean in the Association office at (406) 442-1233 or filling out the information on the donation slip and faxing to (406) 449-0119. We appreciate your support.

**This is an extremely important part of our continued success in the legislature by protecting our business interests. ■**

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

## THANK YOU TO OUR 2019 MONCAR CONTRIBUTORS:

- |   |                                       |
|---|---------------------------------------|
| ■ Action Auto                               | ■ Gem City Motors                     |
| ■ Archie Cochrane                           | ■ Helena Motors                       |
| ■ Bell Motors – 2 contributions             | ■ Hi Line Ford                        |
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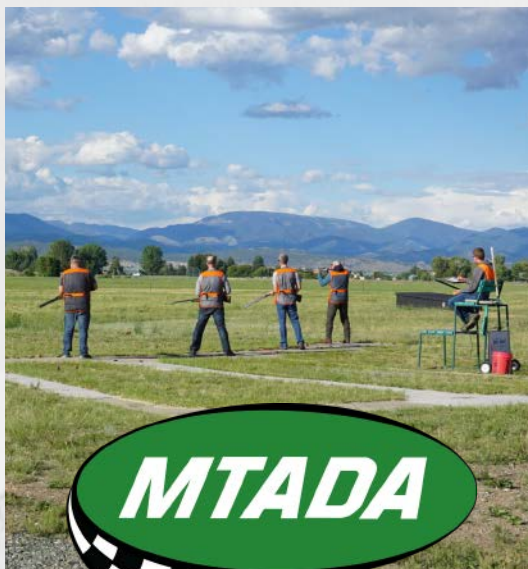
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**Montana Automobile  
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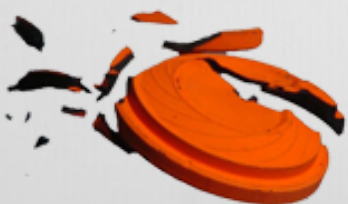
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# Finding Revenue During a Crisis Through Retail Warranty Reimbursement

The world is in crisis, and no one has escaped the financial and economic effects of the COVID-19 pandemic. Everyone in the retail automotive industry understands the true impact that this virus is having on dealerships and just how crucial it is for stores to find additional revenue now more than ever.

Even as many are forced to furlough or lay off employees and juggle payments to keep a skeleton crew running, there is a solution that requires no upfront investment and barely any work on your part: a retail warranty reimbursement submission.

Some dealerships might be reluctant to undertake this, citing concerns such as the fact that they're focused on finding revenue immediately and can't wait 60 to 90 days, they have a hold on spending, or they simply don't have the time. The truth is that none of these issues are show-stoppers in submitting your retail warranty reimbursement. Let's address each one.

## Revenue Now: A Profit Plan for the Near Future

We understand that money is needed now—there's no way around that. But unfortunately, there may not be a direct answer to that besides government-funded loans and stimulus grants. However, once the economy reopens and society begins to slowly meld itself back into a shape of what it once was, dealerships are likely to be the beneficiaries of pent-up demand. Cars are going to be rolling in for repairs, and business will rebound. By submitting a retail warranty reimbursement submission today, you're preparing your dealership for the inevitable economic uptick by starting the process now, which will put money on your bottom line that you'll have access to a few months down the road.

Setting yourself up for the future should be an important focus today. Not only does a retail warranty submission help you in a few months, but it is tantamount to an annuity, the benefits of which will be perpetual.

### Expense Reduction Mode: Never Pay Up-Front Fees

Submitting a retail warranty reimbursement with vendors that operate with a win-win philosophy, means you don't pay any of the cost of services until the manufacturer approves your submission. When you do pay, it is out of found money. Additionally, one way to determine whether

a submission is worth your while is to request that your vendor provide you a no-cost projection of just how much more you could be adding to your bottom line if you were to move

forward. There should be no strings attached—you should only have to provide a few labor and parts figures on your end, and you'll immediately have a good sense of how much you could stand to gain.

This makes it easy to see how profitable a submission could be because you'll have a good estimate of just how much you may be getting and how quickly your pay-back period is on all fees. Even before the reimbursement is in your pocket, you'll have a projection of the profit number you've been looking for to start strategizing around your sustainability plans. Especially in these critical times, a vendor should ensure that their clients feel comfortable and satisfied by walking in the dealer's shoes, and not expecting fees when the dealer can least afford it.

## No Time: Let Others Do the Work for You

One of the most common objections to performing a retail warranty submission during a crisis, is not having enough time, and this is especially true now. Dealerships are scrambling to keep paychecks coming and maintaining any semblance of normalcy during the crisis, so where would they have time to prepare and submit a complex retail warranty submission? That's exactly where a true professional services firm comes in.

A dealer's participation should be limited to providing minimal access to the DMS and signing a pre-written letter; the vendor should do the rest. Dealers should be wary of vendors asking them to perform services, such as pulling potentially thousands of repair orders, in order to assist in preparing the submission. There are some true nightmare stories, where dealers have been forced to perform the work multiple times, based on lost shipments between the dealer and vendor, or even the vendor and manufacturer; in some cases approvals were delayed for months.. There should be



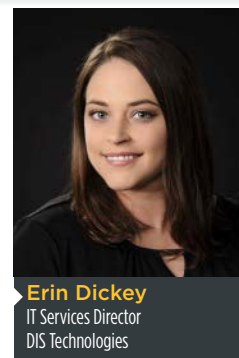
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## IT Security Tip #180: Beware of Scams Offering Remote Jobs to Laid Off Workers

A new job scam is making the rounds, preying on people with an offer of \$5,000 a month doing work from home. It sounds like a great deal, but this scam is run by criminals that will try to use their victims for money laundering.

One such email claims to be from Wells Fargo Human Resources, stating they are short on staff and are in urgent need of employees. If you get an email claiming you can make money to make ends meet since you or a family member was laid off due to the coronavirus pandemic, use your delete key. In general, be very careful with any Internet “work from home” schemes, many of these are fraudulent. Do not give out any personal information to these criminals.

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



**Erin Dickey**  
IT Services Director  
DIS Technologies

### *Would you like to know more about IT security strategies?*

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## Director’s Message CONTINUED FROM PAGE 2

### Business Operations:

Dealers can find a lot of useful information under this section, including links to

NADA webinars on Managing Cash Flow, Federal Tax Implications of the Pandemic, Making Sense of the NEW SBA Paycheck Protection Program and more. There are also links to a whole slew of NADA blog post on the wide variety of topics, as well as links to FFCRA guidance and more.

### Lifeline Webinars

This section contains links to archived and upcoming webinars on a wide variety of timely and useful topics to help dealers navigate through this pandemic and back to some semblance of normal operations soon.

The industry has dealt with existential crises in the past and survived and it will be o different this time. NADA is here to support us through these challenges. Make sure to bookmark the Cornoavirus HUB to stay informed of any new information impacting our industry as it becomes available. ■



# Cleaning And Disinfecting Your Facility

## Everyday Steps, Steps When Someone is Sick, and Considerations for Employers

### How to clean and disinfect

**Wear disposable gloves** to clean and disinfect.

#### Clean

- **Clean surfaces using soap and water.** Practice routine cleaning of frequently touched surfaces.



#### High touch surfaces include:

Tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, sinks, etc.



#### Disinfect

- Clean the area or item with soap and water or another detergent if it is dirty. Then, use a household disinfectant.
- **Recommend use of EPA-registered household disinfectant.** **Follow the instructions on the label** to ensure safe and effective use of the product.

Many products recommend:

- Keeping surface wet for a period of time (see product label)
- Precautions such as wearing gloves and making sure you have good ventilation during use of the product.

- **Diluted household bleach solutions may also be used** if appropriate for the surface. Check to ensure the product is not past its expiration date. Unexpired household bleach will be effective against coronaviruses when properly diluted.

**Follow manufacturer's instructions** for application and proper ventilation. Never mix household bleach with ammonia or any other cleanser.

**Leave solution** on the surface for **at least 1 minute**

**To make a bleach solution**, mix:

- 5 tablespoons (1/3rd cup) bleach per gallon of water
- OR
- 4 teaspoons bleach per quart of water
- **Alcohol solutions with at least 70% alcohol.**

### Soft surfaces

For soft surfaces such as **carpeted floor, rugs, and drapes**

- **Clean the surface using soap and water** or with cleaners appropriate for use on these surfaces.



[cdc.gov/coronavirus](https://cdc.gov/coronavirus)

## Manual Temporary Registration Permits

*Good Afternoon Business Partner,*

Montana Code Annotated requires a fee for all Temporary Registration Permits (TRP) issued, including manual TRPs. Manual TRP fees are charged upon requesting the permits through the Vehicle Services Bureau (VSB). The audit portion of the process remains the same. Each licensed Montana dealer is accountable for all permits assigned to them. The assignment log must be completed and submitted to the VSB when requesting additional permits. This log will be audited for compliance and any discrepancies will be reviewed with our business partners in an effort to prevent future compliance violations.

As a reminder, manual permits may be used for the following emergency situations.

1. The online Temporary Registration Permit (TRP) service is unavailable; this may include Internet provider problems. Times and dates are verified through our IT program resources.
2. A program error verified by phone or email conversation with a Vehicle Services Bureau staff member.

If a situation occurs that requires assistance contact via email DOJ MVD Dealer Info [dojdealerinfo@mt.gov](mailto:dojdealerinfo@mt.gov) or via phone 406-444-3661 ■



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## NADA Market Beat: May Sales Show Signs of Recovery

New light-vehicle sales showed signs of recovery in May, with a SAAR of 12.21 million units. While this represents a decline of 29.8% compared to May 2019, it is a marked improvement over the 47.9% decrease last month. April appears to have been the bottom of the slump for new-vehicle sales, which improved throughout May as many state and local governments relaxed or ended their stay-at-home orders. After outselling the entire car segment for the first time in April, pickup trucks in May remained popular but did not best the car segment. But the entire light-truck segment—crossovers, pickups and SUVs—remained strong in May, with a record 77.2% of all sales. So far in 2020, light-trucks have accounted for three out of every four new-vehicle sales.

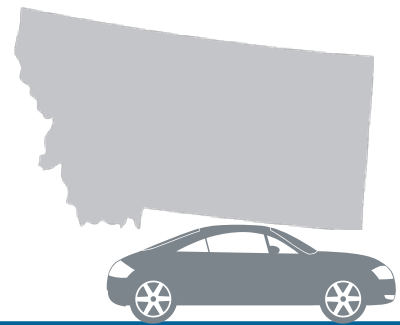
Many customers took advantage of near-record manufacturer incentives, including generous loan terms of zero-percent financing for up to 84 months. Expect this level of incentive spending to be dialed back in coming months, thanks to reduced dealer inventory from automaker shutdowns during the COVID-19 pandemic. These inventory shortages, especially in the popular pickup and SUV segments, will likely be more pronounced in areas of the country that had less stringent lockdowns. According to Wards Intelligence, inventory at the end of May is forecast to be down by roughly 30% compared to this time last year and also may limit sales in June. It will take time for inventory levels to recover, because most automotive plants have just begun to re-start production and inventory in hot segments will likely be limited until late summer.

Fleet sales have been hit harder than retail sales, because large rental companies have significantly reduced or canceled their fleet orders. According to Wards Intelligence, retail sales represented 87% of sales in April and 90% of sales in May, significantly above the nearly 80% average in 2019. For the rest of the year, look for both fleet and retail sales to be down compared to 2019, with fleet sales taking a bigger hit than retail. For 2020, we expect total new light-vehicle sales to be between 13 million and 13.5 million units. ■

# Driving Montana's Economy

## Annual Contribution of Montana's New-Car Dealers

Numbers reflect annual economic activity during 2019.



**97**  
**DEALERSHIPS**  
(new car)



**8,962**  
**TOTAL JOBS**  
(created by dealerships)  
Includes 4,017 direct jobs and  
4,945 indirect and induced jobs.



**41**  
**EMPLOYEES**  
(average per  
dealership)



**\$3.2B**  
**TOTAL SALES**  
(all dealerships)



**\$218M**  
**PAYROLL**

<b>\$54,392</b> Average Annual Earnings	<b>\$615M</b> State and Federal Income Taxes Paid
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Includes income taxes paid for direct,  
indirect and induced jobs.



**0.3%**  
**REGISTRATIONS**  
Montana's Share of Total U.S.  
New-Vehicle Registrations

**N/A**

**STATE SALES  
TAX PAID**

Sources: Center for Automotive  
Research, IHS Markit, NADA,  
Taxfoundation.org, U.S. Bureau  
of Labor Statistics.



NATIONAL AUTOMOBILE DEALERS ASSOCIATION

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## Retail Warranty Reimbursement CONTINUED FROM PAGE 13

limited distractions or side projects handed to your skeleton crew: With the proper vendor, all you've done is added a few no-upfront-cost team members to your arsenal.

A quality vendor saves you time, sure. But another great reason to have a competent third-party prepare and submit your retail warranty reimbursement is because of how well versed they are on every state's law and the manufacturers' requirements. Factory auditors jump at the chance to rebut or deny submissions, and drag out the reimbursement process because manufacturers don't want to pay you more than their standard rate—a common fact of the trade. A top-flight firm knows how to follow submission guidelines to a T and make sure your reimbursement comes as quickly as possible and gives factory auditors no leg to stand on. Although no one can foreclose on all manufacturer tactics to reduce or deny a dealer's submission, it makes sense to leverage industry insider knowledge to assure the best possible result.

### Getting Started

Sometimes dealers' reaction to retail warranty reimbursements is that it seems too good to be true—that's certainly understandable. But the reality is that retaining the right vendor who can guide you through the experience, including what behavior to expect from your manufacturer, can make the process as painless as possible. If you take the time to consider all of the nuances involved, you'll realize this is not the time to take this on yourself—it's not always a walk in the park.

Now, in times of crisis, it has never been more important for dealerships to see the light at the end of the tunnel. The veil of uncertainty will lift sometime in the future—is your dealership ready with the revenue it needs to get a running head start?

**Joe Jankowski is Managing Partner of Armatus Dealer Uplift, a Hunt Valley, Maryland-based firm specializing in retail warranty reimbursement submissions. Joe has been personally involved in consulting on 10 retail warranty statutes and is widely recognized as an expert in this highly technical arena. Previously, Joe spent more than 20 years as CFO, COO, and CEO of a large automotive group in Maryland. ■**

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S A Y L O R**

AS OUR FIRST  
GROUP DEALERSHIP DIRECTOR (GM)



**GM @ LITHIA CHRYSLER JEEP DODGE RAM OF BILLINGS**

Austin graduated from Montana State University in 2005, with a degree in Business Marketing. He started his career with Lithia Auto Group in 2010, and was promoted to management over the years, and eventually took over as General Manager in 2017 at the Chrysler Jeep Dodge RAM store in Billings. In 2018 and 2019 he became a member of Lithia Partners Group. This is awarded to top store GM's in the company based on metrics including profitability, customer service, and manufacturer relations, to name a few. Austin enjoys connecting with, and growing his team. The car sales and service is just a byproduct of the relationships that he builds with both his team and with his customers.

He is married to his lovely wife and they have 3 kids. 11, 9, and 1 years old. When he is not at the dealership, you will more than likely see him spending time with his family, traveling or on the golf course!

Austin grew up on a ranch in Jordan, MT and his family still runs the ranch, raising Black Angus cattle. He tries to spend as much time up there as possible! Growing up on a ranch has taught him work ethic. Growing up in a small town community like Jordan, has taught him the value of relationships. Both are invaluable traits that have helped Austin navigate the auto industry.

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