

Montana Automobile Dealers Association

APRIL 2018 NEWS BULLETIN

PRESIDENT'S MESSAGE:

Don't Forget to Register Early for the Annual MTADA Family Convention August 3rd-5th

Hello fellow Montana Auto Dealers and friends. I want to start off this month's edition by reminding everyone to register for the 104th Annual Family Convention, being held at Big Sky Resort. This will be a great event to keep up to date on legislative issues that impact our industry, gather important information, meet great people, and to have a fantastic time with family and friends.

The all-dealer member meeting will kick the weekend off where we'll discuss the bills that were passed during the 2017 legislative session and what that means for Montana auto dealers. We will also talk through plans for the 2019 legislation and



Bruce will explain the legislative process- this is your chance to have a voice within the industry. We'll talk through the implementation of the "MTADA Automotive Industry Technician Career Pathways Program" and discuss what has been done with the program during the last year and what the plans are going forward. This program is a great opportunity for each of you to get involved in furthering the education of the aspiring young technicians within your communities.

During the President's Reception and Banquet you will have the chance to network with all of our vendors and sponsors as well as several elected officials from both Helena and Washington D.C. We will announce the Time Dealer of the Year Award and the MTADA Eagle Award presented by American Financial. The night will end with Texas Hold'em and cocktails.

The activities and information will continue into Saturday where NADA Chairman, Wes Lutz, will address our dealer body, Erik Chase – one of America's leading automotive industry franchise attorneys

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	<i>and more!</i>

DIRECTOR'S MESSAGE:

The Future of Personal Vehicle Ownership

It's hard to attend an automotive conference these days without hearing about the end of personal vehicle ownership. According to so-called "conventional wisdom," the proliferation of ride-hailing options like Uber and Lyft combined with autonomous vehicles (AVs) are destined to align and make the prospect of owning your own vehicle too inconvenient or too costly.

I get it. We're living in exciting, changing times, and technology is normalizing things today that for decades weren't even on anyone's radar. We're also living in an era that rewards bold predictions far more than rationality.

But as we all know, rationality still drives behavior. So the National Automobile Dealers Association (NADA) has been probing to find out what people really think about AVs, ride-hailing, car sharing and personal ownership. NADA commissioned a large-scale research project that included consumer focus groups and a national survey about the future of personal transportation. And what we found cuts against much of the "conventional wisdom."

Here are the key findings:

Car owners have little, if any, interest in giving up their car keys.

Only 11 percent of car owners in our survey were interested in giving up their personal vehicles to move exclusively toward a ride-hailing service—even under the assumption that the service was widely accessible, safer and more affordable than human-operated vehicles. This was true among all demographics—age groups, geographic regions, and education and income levels.

Cars are convenient to own. Silicon Valley and Wall Street have been pushing the false narrative that owning a car is a hassle—an expensive, unnecessary purchase that folks would rather do away with. The survey showed the complete opposite. It found that only 6.5 percent of car owners viewed car ownership as a hassle.

Millennials aren't much different. Talk to anyone on the topic of millennials and you'll hear something about



Don Kaltschmidt
NADA Director

Continued on **PAGE 8**

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CHAIRMAN'S MESSAGE:

New NADA Chairman, Wes Lutz, Outlines Goals, Focus Areas for Coming Year

Personal vehicle ownership is stronger than ever and auto dealers will continue to bring exciting, inspiring, life-changing products to their customers, just like they've have been doing for the last 100 years, Wes Lutz said in his first official speech as 2018 chairman of the National Automobile Dealers Association (NADA).

"It's true, technology makes sharing a car more convenient than ever. But, what the naysayers forget, is that technology also makes owning a car better than it used to be," said Lutz, who has been a dealer since 1976. "Auto dealers are going to sell the vast majority of electric cars sold... The automobile is the most exciting platform for innovation in the next 100 years."

Lutz, president of Extreme Dodge-Chrysler-Jeep-Ram in Jackson, Mich., outlined his priorities and focus for his coming year as chairman, including advocating new-car dealer concerns within the industry, and in the legislative

and regulatory affairs arenas as well.

Lutz said he will also encourage dealers to continue adapting to the retailing challenges ahead.

"Just because a new system pops up doesn't mean the 'old one' is dead. Just because technology changes, it doesn't mean that a car's usefulness is gone. At almost every turn, dealers have faced challenges—some major ones. But our troubles didn't define us. How we responded to them did."

As car ownership continues to break records—global sales of 90 million in 2017, Lutz noted—auto dealers have a role to play in the future of the industry, investing in new franchises, new facilities, and new technologies.

And NADA will have an important role to play, according to Lutz. "NADA will continue to fight for you in our Nation's Capital—in the face of regulatory and legislative burdens. We will continue to reach out to manufacturers and build strong relationships moving ahead."

Lutz served on NADA's board of directors until 2004. He came back to NADA's board in 2013, serving as chairman of the association's regulatory affairs committee. He also served as president of the Michigan Automobile Dealers Association in 2012, and was the Time Dealer of the Year Award winner for Michigan, 2009.

Most recently, Lutz served as NADA vice chairman under outgoing Chairman Mark Scarpelli. His new term as chairman officially began at the 2018 NADA Show in Las Vegas. ■

Lutz is 2018 NADA chairman and president of Extreme Dodge-Chrysler-Jeep-Ram in Jackson, Mich.




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LEGAL UPDATE

Take Care with What You Put On the Road

Robert Dunlap was severely injured when he lost control of a borrowed Ford F-250 pickup truck towing a van, after the van's right front tire blew out and the truck's steering locked. Dunlap and his wife sued the seller of the used truck Folsom Lake Ford alleging it was liable for failing to replace the truck's worn ball joints, which caused the truck's steering to lock.

Prior to the sale a dealership service technician determined that all four of the truck's ball joints were worn out and needed to be replaced. The tech wrote on the invoice for the service visit: "ball joints worn." He did not document degree of wear, which Dunlap's trial expert testified is required by Bureau of Automotive Repair (BAR) standards.

Although the tech believed the ball joints needed to be replaced, and that the camber and caster in the steering should be aligned, he did not write those recommendations or the degree of wear of the ball joints on the invoice. But he did write on the invoice the price for parts and labor (eight hours total) to replace the ball joints and align the camber/caster. As service technician, he did not speak directly to the vehicle owners but gave the paperwork to the service advisor Brown. Although the paperwork was given to Dunlap, there was no evidence Brown verbally communicated the issue of the worn ball joints to Dunlap. Such communication is required by BAR regulations, as plaintiffs' expert testified.

The jury returned a special verdict finding the dealership was negligent (by a vote of 10 to two); its negligence was a substantial factor in causing harm to Dunlap (by a vote of nine to three); Dunlap was not negligent (unanimous); and the dealership was 100 percent responsible for the harm (vote 10 to two). The jury awarded a total of \$6,976,934 in damages to Dunlap and \$500,000 to Mrs. Dunlap for loss of consortium. On appeal the California Court of Appeals affirmed the jury's decision.

Similar facts would give rise to a suit under the Montana Unfair Claims Practices Act. As we have indicated on more than one occasion in this column in the past, the Consumer Protection Act does not define "unfair or deceptive act or practice." Whether an alleged act is unfair or deceptive is a question of law for the court.

Implicit in the definition of "deceptive" is the understanding that the practice misleads or misrepresents something of material importance.

You may be thinking "... we specifically disclaim any implied warranties. Why doesn't that protect us?" The lesson here is that a disclaimer of implied warranties can be a strong defense, but only when it is not rendered ineffective by the conduct of a dealership employee. Negligent or fraudulent misrepresentations will likely render a warranty disclaimer ineffective. Failure to follow the Bureau of Automotive Repair (BAR) standards was, in this case at least, evidence of negligent conduct sufficient to impose a \$7M verdict on the dealer. ■



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



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COX AUTOMOTIVE

Senate Passes NADA-Backed S.J.Res. 57 to Rescind Flawed Auto Lending Guidance

On April 18th, by a bipartisan vote of 51-47, the Senate approved S.J.Res. 57, which rescinds the Consumer Financial Protection Bureau's (CFPB's) flawed auto finance guidance. The Senate relied on the Congressional Review Act (CRA) to take this very significant step to reject the multi-year, unjustified attack on indirect auto lending.

NADA applauds Sen. Moran (R-Kan.) for his leadership on this issue, as well as Sen. Pat Toomey (R-Penn.). Please thank those Senators who voted "Yes" to repeal the CFPB's flawed guidance and preserve affordable auto loans for consumers. NADA also thanks Sen. Joe Manchin (D-W.V.), who broke with party ranks to vote "yes" on S.J.Res. 57. Several Democratic Senators who voted "No" used procedural rationales to justify siding with far-left voices in the Senate. Click here for the vote summary on passage of S.J.Res. 57 and to see how your senator voted.


The White House issued a statement of administration policy stating that the President's advisors will recommend President Trump sign S.J.Res. 57 into law if it passes the House. According to White House, the guidance "limits the ability of auto dealers to offer auto loans to their customers and was not issued pursuant to notice-and-comment rulemaking... Further, the Dodd-Frank Act explicitly excludes the regulation of auto dealers from the CFPB's jurisdiction. Disapproving this bulletin, therefore, would provide consumers with more options for auto financing while ensuring that the CFPB abides by congressional limits on its jurisdiction." ■

Source: David Regan, NADA, Executive Vice President of Legislative Affairs

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**Montana Automobile
Dealers Association**

104th Family Convention

AUGUST 3-5, 2018

Big Sky Resort | Big Sky, Montana

JOIN US this year for the 104th Annual Family Convention at Big Sky Resort

SPEAKERS:

Wes Lutz, NADA New Chairman, *How the NADA can serve and represent the franchised new-car and -truck dealers of America.*

Jason Volny, National Training Manager, DrivingSales, *Human Capital Management and how it can amplify the growth of future leaders in your dealerships.*

Erik Chase, Franchise and Dealership Attorney, Bressler Amery Ross, *Top 10 Legal Trends for Auto Dealers in 2018.*

ACTIVITIES:

- Annual President's Banquet with Legislators from Helena and Washington D.C.
- Texas Hold'Em Poker Night
- 9-Hole Shotgun Style Golf Scramble
- Annual Family Dinner
- Yellowstone Park Bus Tour
- Plus many other activities offered by Big Sky Resort.

We encourage all of you to bring your families!
Childcare will be offered at certain times of the day.

Please Register Online at MTADA.Com



President's Message

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will discuss the Top 10 Legal Trends for Auto Dealers, and Jason Volny, a National Training Manager for Driving Sales, will elaborate on Human Capital Management and how it can amplify the growth of future leaders with in your dealerships. Saturday's sessions will be followed by the 9-hole Golf Scramble Tournament, held at the Big Sky Resort Golf Course. We encourage all of you to sign up and participate in the tournament. It is an amazing chance to get to know each other through a little friendly competition. Saturday will commence with the annual "Family Dinner". We encourage all of you to stay and spend the evening getting to know the families and support systems behind our dealers.

This year we will be commencing the convention a little different and we encourage all of you to join us for the bus tour through the scenic Yellowstone National Park. The bus will pick everyone up outside of Huntley Lodge. We will spend a total of six hours exploring Yellowstone National Park. We have a limited amount of seats on the bus and encourage everyone to sign up as soon as possible. Signups can be done on the MTADA website at your time of registration. Tickets will be \$90.00 per person and includes a lunch.

If you have any question about the conference, golf tournament, or Yellowstone tour please contact Jordan at (406)442-1233 or jglosser@mtada.com. We look forward to seeing you all this year! ■

Eric Henricksen is the owner of Don Aadsen Ford in Ronan, Montana

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Director's Message CONTINUED FROM PAGE 1

how they are a virtually different species of consumer. But millennials in our survey were not that different from the rest of consumers. Only 19 percent of them would give up car ownership for exclusive ridesharing. And most of those were the youngest, most urban and mostly single subset. But put a 30-year-old millennial in the suburbs with kids, and they start looking, thinking and acting just like the rest of us. Actually, millennials are buying new cars at a higher rate today than 10 years ago. Last year, the percentage of new-vehicle sales to consumers under the age of 35 was 19.3 percent vs. 16.6 percent in 2007.

People won't trade time for money. According to the U.S. Department of Transportation, the average U.S. household takes about 10 trips per day (stopping at the grocery store on the way home from work counts as two trips). The survey we commissioned found that the ride-hailing users on average waited nine minutes for each Uber or Lyft ride. Do the math—that's a lot of waiting. And even if ride-hailing services save money, folks aren't willing to trade their time for that savings. Half of the people surveyed reported that they'd need to save at least \$50 per day to compensate for an extra hour of waiting for ride-hailing services. Under the rosier scenarios, autonomous taxis might lower transportation costs—but nowhere near enough to compensate for the additional cost and inconvenience of waiting.

Bottom line

People want the freedom, flexibility, convenience and control that only vehicle ownership provides.

Fully 90 percent of car owners surveyed said that, at every moment, their car provides them the freedom and flexibility to go where they want, when they want. Respondents cited a number of reasons—including the ability to make multiple trips on an errand-run, take an impromptu trip to another city or state, drive unexpectedly to an emergency room and have the ability to leave an event earlier or later than planned—as key benefits of personal vehicle ownership. Such benefits would all disappear if they relied exclusively on ride-hailing.

The survey found that ride-hailing services provide some great benefits—especially in urban areas and in places where parking is an inconvenience. But if real consumers have anything to say, the future of transportation will be built upon the foundation of

personally owned vehicles, whether human operated or autonomous. Consumers will continue to purchase their own vehicles and use ride-hailing services as a supplement whenever it's more convenient. Consumers want both, not "either/or." In the future, ride-hailing services will supplement personal vehicle ownership, not supplant it.

This also means that the chief threat to personal vehicle ownership is not the marketplace. It's the government. In February, Uber, Lyft, Zipcar and Didi Chuzing (China's largest ride-hailing service) signed a self-serving statement of principles supporting a mandate that all AVs in urban areas be part of shared fleets—not personally owned. That's not an action of the marketplace—it's one that would require government intervention. If there's a threat to personal vehicle ownership, that's it.

Owning your own vehicle is as American as apple pie. And as local dealerships that represent our customers as much as our businesses, we need to be vigilant about protecting the right of every American to retain the freedom, flexibility, convenience and control of owning their own vehicle and the ability to drive it when and where they want. ■ *Source: Patrick Manzi and Boyi Xu, NADA Market Beat*

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IT Security Tip: The Internet of Things— Are you OK playing offense?

Erin Dickey
IT Services Director
DIS Technologies

Technology has made our lives better. After all, adjusting the thermostat and turning the hot-water heater back to normal temperature as you board the plane to come back home from vacation isn't only cool, it's very handy. However, all of the connected devices in the world today – or the Internet of Things (IoT) – is also one of the biggest security problems seen in a very long time. Most people think about changing their computer password regularly and their ATM PIN code sometimes, but they never change the password that ships with, for example, a programmable thermostat – and that password is listed in the manual that is included with each thermostat. Since the password is the factory default, anyone who knows it may have access to your thermostat.

Usually, attackers who target IoT devices don't want to cause you a problem. They use your device as a "soldier" to battle – along with 20,000 other thermostats and other devices – against an Internet website, e-mail server or another Internet target. That much traffic could be enough to make a website quit working, or stop your e-mail server from delivering e-mail to you.

You should adopt a very strict offensive posture against these types of threats in your business and at home. Make sure that you always change the default password for any device connected to the internet. If there is a problem, you should be comfortable with the approach of "kill first, ask questions later." If there is even a suspected problem, pull the plug on the device. Make sure staff and partners know it's OK to adopt the same offensive approach. Your Internet-connected water heater can have hot water ready for you when you get home and someone's data, website or email server will be safe because you are playing offense.

Would you like to know more about IT security strategies? Download our free report, **The 7 Most Critical IT Security Protections Every Business Must Have In Place Now To Protect Themselves From Cybercrime, Data Breaches And Hacker Attacks**. To get instant access, go to our website: <http://www.dismt.com/cybersecuritytips/>. ■

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**Montana Automobile
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DEALER'S CORNER

In Memoriam: Leonard Fichtner

Leonard Fichtner, of Billings, Montana passed away the morning of March 5th, 2018 at the age of 78. Leonard began his career in the automotive industry, at the age of 14, working with his father servicing vehicles at the Conoco Service Station in Bridger. At 21, Leonard bought the Chevrolet Dealership, in Bridger, from his father. Four years later he bought Modern Chevrolet in Laurel and combined the two to create Fichtner Chevrolet. Leonard served on the National Auto Dealer Board of Directors for 12 years, chaired many committees and served as the National Secretary in 1996. He received the prestigious Time Dealer of the Year award in 2003.

In lieu of flowers, Leonard's family and friends ask that you make a donation to one of the following organizations:

- First Congregational Church in Laurel, MT; 506 S 5th St, Laurel, MT 59044
- Shriner's Hospital for Children; 12502 USF Pine Drive, Tampa, FL 33612
- Local Walk for Multiple Sclerosis c/o Kelly Klein 6612 Donny Drive Billings, MT 59106
- Or a charity of your choice

To learn more about Leonard, read more in the Billings Gazette article about him. ■

New NextGen Dealer

Danton Wallin is a Montana native, born and raised in Bozeman MT. He graduated Bozeman Senior High in '91 and joined the US Navy '91-'95. When stationed at Naval Air Station Whidbey Island in Washington State he was assigned to VAQ-132 Scorpions, deployed on the aircraft carrier CV-60 the USS Saratoga and honorably discharged in 1995. He then attended the University of Washington, achieving a BA degree and returned to Bozeman in 2000 as the third generation to join the family business; Bozeman Ford Lincoln & RV. He attended NADA Dealer Academy in 2002 and is currently the General Manager.



The Sobering Truth: Alcohol Awareness

Drinking too much alcohol increases risk of injuries, violence, drowning, liver disease, and some types of cancer. This April, during Alcohol Awareness Month, we encourage you to educate yourself and others about the dangers of drinking too much.

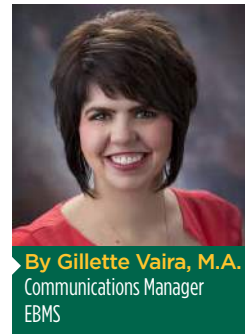
Montana has one of the highest fatality rates in the U.S. for number of deaths caused by impaired drivers. During the first two months of 2018 alone, six people died in Montana due to impaired driving.

Alcohol affects everyone differently. Your blood alcohol content is impacted by the amount of food you've consumed, your weight, your gender, and your physiology. In Montana, the BAC limit is 0.08, or 0.02 for drivers under age 21. The limit is 0.04 for commercial vehicle drivers. Understand the limits and know the consequences.

If convicted of a DUI, Montana court penalties can range anywhere from 24 hours in jail and a fine of \$600 to one year in jail and a \$10,000 fine, depending on the number of offenses of a DUI. An aggravated DUI charge results in increased fines and jail time. Despite the risks, 3.4 percent of Montanans report driving after drinking too much, compared to 1.9 percent nationally.

Remember, women should limit themselves to no more than one drink a day, and men should limit themselves to no more than two. If you are concerned about someone else's drinking, offer to help. If you realize you need help, talk with your provider. Or, call the 24-hour Hope Line at 800-622-2255. If you are in immediate danger or thinking about harming yourself or others, please call 911 or go to the nearest emergency room. ■

Sources: www.ncadd.org; www.healthfinder.gov; www.cdc.gov; www.dmv.org; www.mdt.mt.gov



By **Gillette Vaira, M.A.**
Communications Manager
EBMS

Educating Your Members Begins with You

The Montana Automobile Dealers Association has partnered with EBMS to provide you and your employees with a variety of resources to keep you physically and financially well on your journeys. So pass it on! Consider sharing this information with your employees so you can empower them to be their healthiest selves. After all, a healthy workforce means a healthy business.

Get involved with Alcohol Awareness Month by participating in the Alcohol-Free Weekend during the first weekend of April. Do you want to make it a regular occurrence? Each week, choose a day when you will not drink, and stick with it.

Did you know Montana's DUI law is stronger now? Check out the details at <http://leg.mt.gov/bills/2015/billpdf/HB0488.pdf>.





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