

# Montana Automobile Dealers Association

## FEBRUARY 2018 NEWS BULLETIN

### PRESIDENT'S MESSAGE: **MONCAR in Review**

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

At the end of the 2017 legislative session, Governor Bullock signed two very important bills 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 when purchasing a dealership. We are only the sixth state to get this legislation passed.

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.

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 notice and information went out to all of the dealers a few weeks ago and for those who contributed it is very much appreciated. For those of you who haven't yet, Bruce will be emailing you a follow up with all of the information soon.

If you would like to contribute, 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.

**We appreciate your support. ■**

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



**Eric Henricksen**  
MTADA President

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## DIRECTOR'S MESSAGE:

### NADA Market Findings

There were 1.15 million light-vehicle sales in January. Sales fell to 17.07 million SAAR, a drop of 1.6%. But a SAAR above 17 million is still a very healthy market. Light-truck sales were a whopping 68.3% of all new light-vehicle sales, with crossovers—up 3.9% from January of last year—gaining the most market share. Several extreme cold weather events across the country likely had a negative effect on light-vehicle sales in January. In the first few months of 2018, we expect sales to cool slightly from the rapid sales pace of the last few months of 2017. But many U.S. workers should now be seeing more money in their paychecks because of the new tax legislation, so we expect demand for vehicle purchases to remain robust overall. The only catch: Consumers will be tempted by an increased supply of nearly-new off-lease vehicles with lower prices. We still predict a strong year for new light-vehicle sales, with a forecast of 16.7 million units.

Source: Patrick Manzi and Boyi Xu, NADA Market Beat



**Don Kaltschmidt**  
NADA Director



### U.S. Light-Vehicle Sales

(Seasonally Adjusted at Annual Rates)



	Jan. 2018	Y/Y Change %	Jan. - Jan. 2018	YTD Change%
<b>Total Car</b>	5.51	-13.0%	5.51	-13.0%
<b>Total Light Truck</b>	11.56	5.0%	11.56	5.0%
<b>Domestic Light Vehicle</b>	13.10	-1.9%	13.10	-1.9%
<b>Import Light Vehicle</b>	3.97	-0.3%	3.97	-0.3%
<b>Total Light Vehicle SAAR</b>	17.07	-1.6%	17.07	-1.6%

Continued on **NEXT PAGE**



ARE YOU READY  
**104TH ANNUAL MTADA  
FAMILY CONVENTION**  
AUGUST 3RD-5TH AT BIG SKY RESORT

## NADA Market Update

CONTINUED FROM PREVIOUS PAGE

### Market Share, by powertrain



Gasoline 94.0%

Diesel	2.8%
Hybrid	1.9%
Electric	0.7%
Plug-in hybrid	0.6%

Continued on **PAGE 10**

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## CHAIRMAN'S MESSAGE:

### How Does Your Store Measure Up?

#### NADA Workforce Study Can Help You Find Out

We are only as strong as our weakest link. With that said, the 2018 NADA Dealership Workforce Study is now open for enrollment and I encourage all dealers to participate and use this tool to your advantage. The nation's franchised auto dealers have been going strong for a century. But to meet the demands of the future, we must take a hard look at our most valuable resource: our employees.

I'm happy to report that dealer participation was incredible last year. The 2017 workforce study analyzed more than 451,000 payroll records from 2,350 new-car and -truck dealerships that participated. Let's triple our participation this year.

NADA's workforce study objectively measures the strengths of our businesses and helps us better compete in today's market. The study results will help you make informed decisions on pay plans, benefits and work schedules; take steps to reduce turnover and retain the best employees; and pinpoint demographic issues that your dealership may face.

Last year we identified important hallmarks of today's modern dealership. On average, dealership employees across the nation are earning nearly 24 percent more than the median weekly earnings of \$832 for the U.S. private-sector workforce. We also found an interesting trend in new hires: Millennials made up 61 percent of all new dealership hires, and the rate is increasing. These are undoubtedly successful markers that we can all be proud of. However, we can also target areas of improvement such as employee turnover and inclusiveness in our individual operations.

The best part of the Workforce Study is that participation for new-car and truck dealers is free. Enroll today; the study closes on April 30, 2018. NADA will provide you a complimentary custom

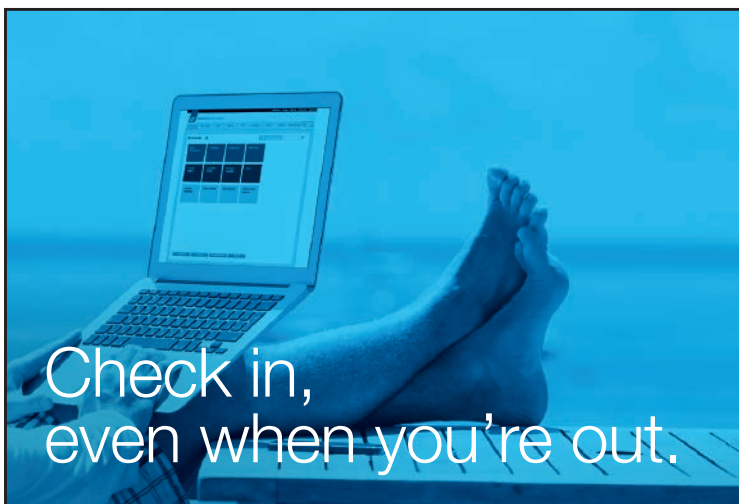
report that compares your dealership to aggregated data from your peers across the nation and region—even down to dealerships selling your brand in your state or region.

Dealers today are facing myriad new issues including cybersecurity threats, increasingly complex vehicles and evolving customer expectations. The strength and competitiveness of every dealer rests in the quality of their team. Let's make sure that our links are stronger than ever.

*Scarpelli is 2017 NADA chairman and president of Raymond Chevrolet and Raymond Kia in Antioch, Ill., and co-owner of Ray Chevrolet and Ray Chrysler-Jeep-Dodge-Ram in Fox Lake, Ill.*



Mark Scarpelli  
2017 NADA Chairman



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## LEGAL UPDATE

# Montana Supreme Court: The Montana Dealer Act

February was a busy month for the Montana Dealer Act at the Montana Supreme Court as the state's highest Court decided two separate cases, S&P Brake Supply v. Daimler Trucks NA, DA 17-222, decided on 2/13/18 and Rimrock Chrysler and Chrysler Group v. MVD and Lithia Motors, DA 17-284, also decided on 2/13/18.

The court upheld the "good cause" termination of S&P Brake Supply by Daimler Trucks NA. S&P had been a Daimler dealer since 2000. All in all, not a good day for the dealer body. The Court found that while S&P sold 11 trucks and averaged \$400,000 in parts and service each year between 2009 and 2013 only 2 were sold in its primary market area, Yellowstone County. In April 2012, Daimler sent S&P a letter identifying deficiencies under its franchise that needed to be corrected, including failure to adequately promote and sell Western Star trucks, failure to hire necessary personnel, and failure to submit required financial statements.

In January 2015, a contested case hearing on Daimler's proposed termination of S&P's franchise was conducted before Department Hearing Officer Sarah M. Clerget. Hearing Officer Clerget issued finding of facts, conclusion of laws, and a proposed order that concluded Daimler had good cause to terminate S&P's Western Star franchise. S&P filed exceptions and, after receiving oral arguments from the parties, the Department issued a Final Decision that adopted the proposed order. S&P appealed to the district court. Clerget's decision was affirmed at the district court. That decision was appealed to the Supreme Court.

The Court noted that its decision in the S&P case was decided under the 2013 version of the Montana Dealer Act, so the new provisions adopted during the last legislative session were not addressed.

The evidence focused on S&P's performance in Yellowstone County and was properly considered. The Department found, "[t]he bottom line is that S&P's sales were deficient no matter which way one analyzed the data," and this determination was supported by substantial evidence. Thus, the District Court did not err by upholding the Department's determination on this factor.

One point made by the court relating to market penetration, the ever present elephant in the room, holds some promise

for future dealer cases because the court acknowledged that "objective evidence of a franchisee's deficient sales in relation to the market is an appropriate consideration, while a naked desire for a greater market share by a franchisor, without more, is an inappropriate basis to establish good cause."

Rimrock Chrysler and Chrysler Group v. MVD and Lithia Motors, DA 17-284, decided on 2/13/18 appears to bring to an end the long running effort of Rimrock to obtain authorization for the additional point it was awarded in a post-bankruptcy arbitration proceeding with FCA. There the Supreme Court decided that although Rimrock obtained authorization from FCA for restoration of its Billings franchise, since the result was an additional point under Montana law, a proceeding to establish good cause was required. An administrative law judge earlier ruled that good cause had not been established. ■



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

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- July 9 – 13
- August 6 – 10
- September 10 – 14
- October 8 – 12
- November 5 – 9

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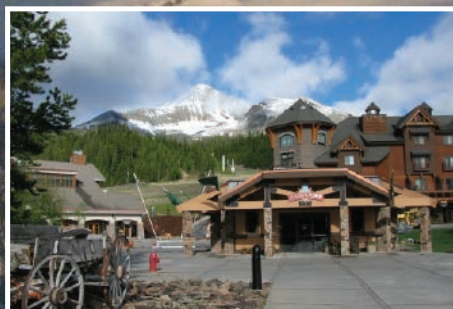


***Montana Automobile  
Dealers Association***

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## IT Security Tip: What Did You Order from Amazon?

**Erin Dickey**  
IT Services Director  
DIS Technologies

You receive an email stating that your Amazon order has shipped. You can't remember placing any recent orders with them, but you think maybe a family or office member may be expecting something. On the page is a link to track the package.

**STOP!!! BEFORE** you click on it, just hover your mouse cursor over the link (Do NOT Click). Does the link shown in the pop-up bubble mirror the same URL (Web address) as the one that appears typed in the message? No? Then you are better off deleting the message and NOT letting your curiosity get the best of you. Also, be very suspicious of any web address that includes additional letters, for example .ru, .pl, .br, .cn (Russia, Poland, Brazil, China) just to name a few. It is very unlikely that you will receive any legitimate email from anyone in these countries.

Shipment notifications are a very popular method used in phishing to redirect a person to either a fake website/landing page OR to introduce a virus or ransomware to the machine currently in use by the recipient. Don't fall for this deception or it will cost you time and a lot of money to recover from it.

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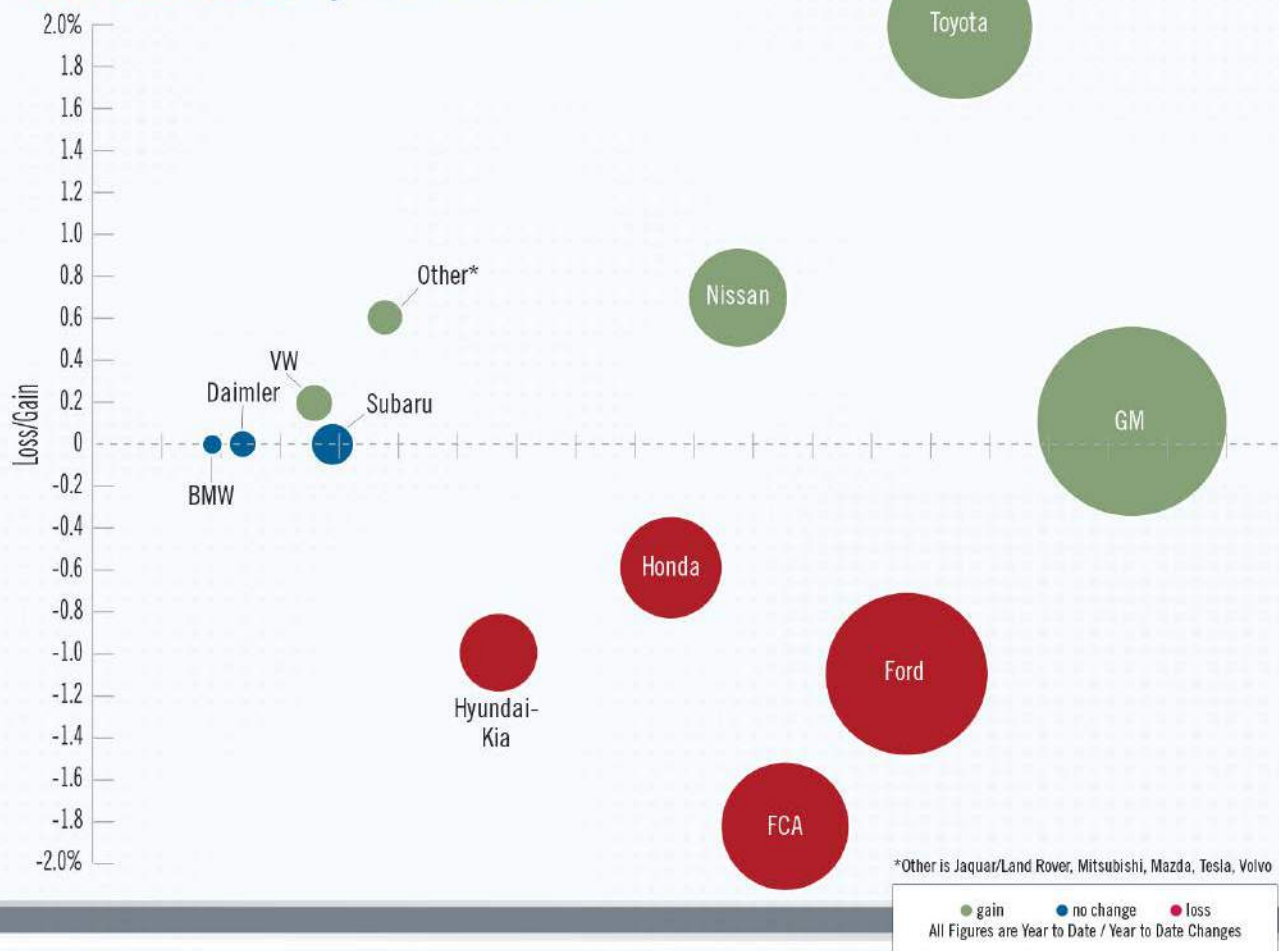
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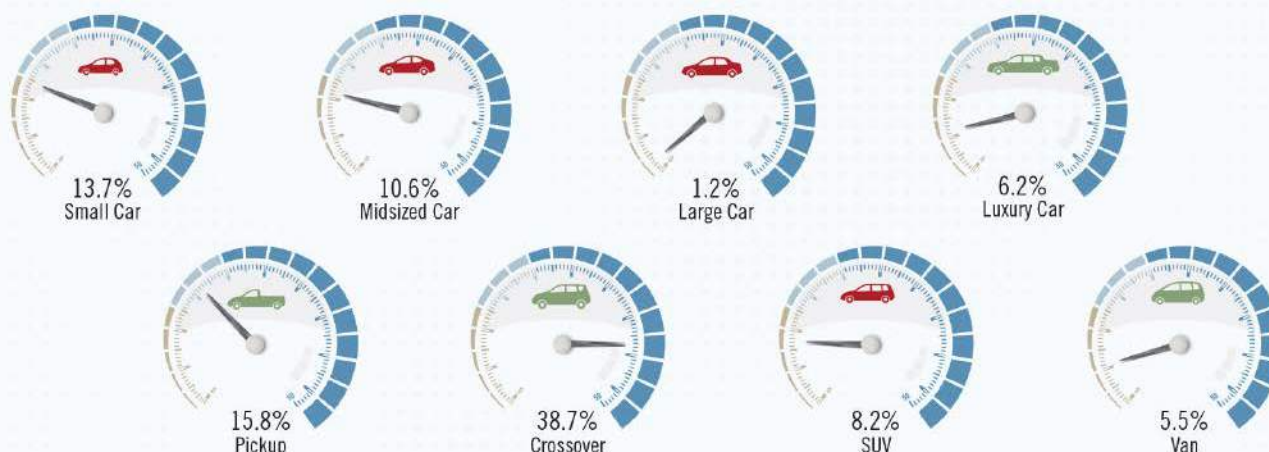
## NADA Market Update

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### Market Share, by manufacturer



### Market Share, by segment



## Opioid Epidemic: A National Healthcare Crisis

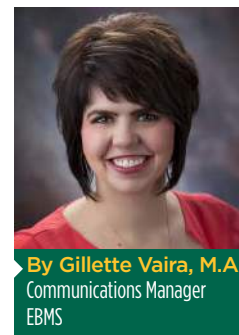
Are you one of the 60 percent of Americans who have unused opioid painkillers at home? Then you'll want to read more... and take action.

Opioid abuse is a national healthcare crisis. About 4.5 million Americans abuse prescription pain killers, costing the U.S. more than \$78 billion annually. What's worse is that someone dies from an opioid overdose every 18 minutes.

Opioid dependence can start within just a few days of using these medications, so it's important that patients understand the risks. Opioids are prescription-only pain medications generally used to manage acute pain for short periods of time. They may also be used for longer periods for select patients, such as those with cancer. However, extended use and not taking opioids as prescribed can lead to serious side effects, including addiction, overdose, and death.

About 70 percent of opioid abusers get drugs from friends or family. So, do some checking at home. Store these medications in original labeled packaging and lock them in a cabinet or drawer. Or, simply flush unused medications down the toilet. It's imperative. In fact, you could save a life. ■

*Optum Rx and [www.hhs.gov](http://www.hhs.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.





# Driving Montana's Economy

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

Numbers reflect annual economic activity during 2016.



**100**  
**DEALERSHIPS**  
(new car)



**9,036**  
**TOTAL JOBS**  
(created by dealerships)  
Includes 4,050 direct jobs and  
4,986 indirect and induced jobs.



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



**\$4B**  
**TOTAL SALES**

**17.8%**  
Share of Total  
Retail Sales in State



**\$206M**  
**PAYROLL**

**\$51,808**  
Average Annual  
Earnings

**\$78M**  
State and Federal  
Income Taxes Paid

Includes income taxes paid for direct,  
indirect and induced jobs.



**0.4%**  
**REGISTRATIONS**

Montana's Share of  
Total U.S. New-Vehicle  
Registrations

**15.4** YEARS  
**AVERAGE  
VEHICLE AGE**

Sources: Alliance of Automobile Manufacturers, Center for Automotive Research, IHS Markit, NADA Industry Analysis,  
U.S. Bureau of Labor Statistics.



NATIONAL AUTOMOBILE DEALERS ASSOCIATION

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