



Montana Automobile Dealers Association

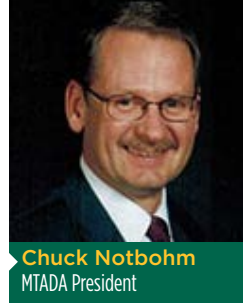
SEPTEMBER 2017 NEWS BULLETIN

September Wrap-Up

Greetings. I am writing this while I am currently returning to Miles City from the 2017 NADA Washington Conference. What a conference it was! This was the first time I had the opportunity to attend, and I was joined by Don Kaltschmidt, Jim Stanger, Bill Underrinner, Marissa Schoepp, and Bruce Knudsen. It was impressive for me, first of all, being in our nation's Capitol and being able to reflect on the many blessings we have for our freedoms, and being surrounded with the processes that continue to keep the legislative process moving. We were able to meet with and talk to our three congressional members, Congressman Gianforte, Senator Daines, and Senator Tester, explaining concerns and issues we face as Montana Auto Dealers. Those being: a) Tax Reform – Interest deductibility, LIFO and advertising deductibility, Estate Tax, and Comprehensive Tax Reform. b) Vehicle Recalls – Overboard recall bills and recall bill language. c) Highly Autonomous Vehicles – HAV bill language, and levels of autonomy. d) CFPB Reform – the bill language. e) Federal Excise Tax on New Heavy-Duty Trucks – language in the bill.



At the Washington luncheon on the first day, Senator Lindsey Graham spoke to the group with Secretary of Transportation Elaine Chao and from Fox New, Tucker Carlson, headlined the General Session. It was a great time and very informative. If you have the opportunity, I encourage you to attend. ■



Chuck Notbohm
MTADA President



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and more!

DIRECTOR'S MESSAGE:

NADA Washington Conference

On September 12-13, I had the opportunity to participate in the annual NADA Washington Conference in Washington D.C. Jim Stanger from Helena Motors, Marissa Schoepp from Eagle Country Ford in Sydney, Chuck Notbohm from Notbohm Motors, Blake Underriner, Bill Underriner and Bruce Knudsen were able to attend with me.

The main focus of our visit was to meet with our elected officials to discuss issues on a national level that are important to Montana auto dealers. However, another big part of the conference was to hear from our NADA leaders as well as other national leaders and industry experts. We were able to hear from Senator Lindsay Graham (R-S.C.), Representative Sean Duffy (R-Wisc.), Elaine Chao the Secretary of Transportation and Tucker Carlson from Fox cable. Overall, the speakers were very informative and entertaining.

During our meeting with our representatives, the following issues were discussed:

Tax Reform

In 2016, the House Republican leadership released a "Tax Blueprint," their outline for tax reform legislation expected this fall. NADA favors provisions in the Blueprint that: (1)

treat pass-throughs fairly, since many automobile dealerships operate as pass-through entities; (2) maintain the LIFO (last in, first out) inventory accounting method, since repealing LIFO would take working capital away from dealerships that could otherwise be used to create jobs; and (3) eliminate the estate tax, since the tax hurts family-owned dealerships with assets, such as land and single-use showroom facilities, that cannot be easily

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Don Kaltschmidt
NADA Director



Bill Underriner and Don Kaltschmidt at the 2017 Washington Conference

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CHAIRMAN'S MESSAGE:

The Equifax Data Breach— What Dealers Should Know

Equifax is one of three nationwide credit-reporting agencies that track and rate the financial history of consumers. Equifax recently announced a major breach of the data it stores and news coverage of the breach has been widespread. Equifax has stated that information from as many as 143 million people in the United States was compromised. Given the number of people affected and the sensitive type of information exposed, dealers should understand the basics of the breach and what it means for their customers. In particular, dealership employees should recognize they are likely to: (a) get questions from customers about the breach, and (b) see a potential increase in “credit freezes” and fraud alerts on credit applicants’ credit reports. As a result, dealership personnel should review the FTC guidance below and understand what they may encounter, what they should look for, and what steps they should take when facing a fraud alert or “frozen” credit report.

If dealership personnel do get questions, it is important to first explain that the reported breach occurred at Equifax, and does not involve the dealership, data stored at the dealership, or dealership processes. Dealership personnel can also point consumers to the FTC’s consumer guidance “The Equifax Data Breach: What to Do?” That guidance: (a) provides a link to the Equifax website where consumers can determine if their information is at risk and how to sign up for the free credit monitoring service provided by Equifax, and (b) provides general information about steps consumers can take to protect their credit, including how to place a fraud alert, or a credit “freeze” on their account.

What if dealership personnel do see a fraud alert or encounter a “frozen” credit report? First, dealership personnel should review the FTC document entitled “Fraud alerts vs. credit freezes: FTC FAQs” that provides further information about fraud alerts and credit freezes. There, the FTC explains that if a customer’s credit is “frozen” then that customer’s credit report generally cannot be viewed until the customer takes steps to “unfreeze” their credit. They will be assigned a PIN they must use (and may forget), and it may include a fee that the customer must pay (both to place, and to temporarily “lift” the freeze), and may also include a lead time that could affect a financing transaction. If there is a fraud alert on the credit report, then the dealership must take certain additional steps to verify the identity of the

applicant before the credit process can be finalized. Generally, that involves calling a phone number that the consumer provided at the time they placed the fraud alert and speaking with the consumer.

Dealers and their employees should also be aware that there are already scammers trying to take further advantage of the Equifax breach by calling consumers and trying to obtain personal information through false pretenses. See the FTC warning here for more.

Lastly, this is a good reminder for dealers to revisit their Red Flags program to ensure that they are taking the required steps to detect and prevent scammers from opening a line of credit using someone else’s information. ■

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

Flood Damaged Vehicles— More Than Just Mud on the Tires

It has been just about a month since Tropical Storm Harvey wreaked havoc on Houston, Texas and the surrounding area. We have all seen the pictures and videos of the mass destruction and devastation caused by this storm. In the aftermath of such an event, the opportunity for deception and fraud runs rampant. Unfortunately, the automobile industry is not immune from this fraud.

If history is any guide, flood-damaged vehicles from Harvey are changing hands, and buyers of these vehicles are at risk. Early estimates are that 300,000 to 500,000 vehicles were damaged by the flooding and aftermath of Harvey, and about half of the vehicles damaged by flooding are resold, sometimes to buyers without any knowledge the vehicle was damaged in a flood. With hundreds of thousands of flood damaged vehicles on the market, the opportunity for fraud is substantial.



Craig D. Charlton
MTADA General Counsel

A flood-damaged vehicle can be made to look clean and repaired with a few thousand dollars of work. However, most of these vehicles will also have compromised electronics that control and govern key systems such as airbags, driver-assistance devices and active safety technology. The defrauder will not repair or replace these systems, as the cost to do so runs quite high. The peak time frame for fraudulent sales of flood-damaged vehicles is most likely to come in two or three months as insurers process claims. Most criminals attempting to sell their shoddily repaired vehicles will do so in states far away from Texas. Montana likely is a desirable destination for these vehicles, especially pickups; Texans are truck-loving people, just like us Montanans.

It is not illegal to repair and resell a flood-damaged vehicle, as long as the damage is disclosed to the buyer on the title.

However, the criminal has learned that some states will issue titles without notice of damage. The criminal will reregister the damaged vehicle in one of those states and then try to sell it to an unsuspecting buyer in another state or at an auction. Beware of these vehicles.

The National Motor Vehicle Title Information System, a federal database that allows states to share data on vehicles that have been issued titles such as “scrapped,” “junk,” “salvage,” and “water damage,” is trying to help combat and prevent this type of fraud, but not all states participate in this system. The criminals know which states do not. It is some consolation to know that both Texas and Montana do participate in this database. You can check out this website at vehiclehistory.gov.

So be on the look-out for these flood-damaged vehicles and do your due-diligence on the title and the repairs made to the vehicle – or more importantly, the repairs not done. ■



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Director's Message CONTINUED FROM PAGE 2

liquidated to pay the tax without destroying the viability of the dealership. The Blueprint is silent on deductibility of advertising, which historically has been a major dealership expense.

The Blueprint eliminates the deduction for net interest expense, which would negatively affect dealers. Small business dealerships rely heavily on financing to fund vehicle inventory and facilities improvements and do not have access to the equity capital markets. Eliminating or limiting interest deductibility in exchange for full expensing would disproportionately harm small business dealerships and reduce cash flow, increase borrowing costs and hamper funding for new investments, inventory, and jobs. Tax reform legislative language is expected in September. Congress should ensure that overall changes to the tax code do not negatively impact small business dealerships.

Oppose S. 1634/H.R. 3449 – Overbroad Recall Bills

Sen. Blumenthal (D-Conn.) and Rep. Schakowsky (D-Ill.) introduced partisan bills (S. 1634/H.R. 3449) that could cripple the used-car market by halting the sale or wholesale of any used car under open recall by a dealer, even though most vehicle recalls do not require the drastic step of grounding. These bills would create a “trade-in tax” that would instantly devalue a car buyer’s trade-in by grounding recalled vehicles for such minor matters as a peeling sticker. Because of a shortage of recall parts, it often takes months to repair recalled vehicles. A 2015 study by J.D. Power found that enactment of these bills would result in an average “trade-in tax” of \$1,210, and some consumers’ trade-in values would decline by \$4,000 to \$5,000. Lowering trade-in values would immediately hurt car buyers by reducing the down payment a consumer could use to buy a newer vehicle. Also, since the bills do not regulate private sales, recalled cars would be pushed into the unregulated private market, making it more difficult to complete recall repairs.

The Senate Commerce Committee rejected an amendment identical to S. 1634 in 2015. Congress should focus on legislation that increases recall completion rates, and oppose bills such as S. 1634/H.R. 3449 that creates a tax on millions of customer trade-ins while not guaranteeing that a single, additional recalled vehicle gets fixed.

Self-Driving Cars Legislation Should Preserve State Vehicle Licensing and Franchise Laws

Congress is considering legislation to advance self-driving vehicles or Highly Automated Vehicles (HAVs) which could preempt certain state laws. All states have enacted vehicle franchise and licensing laws to provide consumer protections and regulate vehicle commerce. While Congress seeks uniform regulation of self-driving vehicles to avoid a state patchwork that would hamper deployment of these vehicles, Congress must also ensure that the states’ traditional role to regulate motor vehicle commerce within its borders is preserved as applied to self-driving vehicles. On Sept. 6,

Continued on **PAGE 6**



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Director's Message

CONTINUED FROM PAGE 5

the House approved H.R. 3388, the "SELF DRIVE Act" by voice votes. Bipartisan language to clarify that Congress does not intend to preempt state vehicle licensing/franchise laws as applied to self-driving vehicles was included in the bill. In the Senate, Sens. Thune (R-S.D.), Nelson (D-Fla.), and Peters (D-Mich.) plan to introduce the Senate version of this legislation in the fall. Congress must ensure that legislation regulating self-driving vehicles explicitly preserves state vehicle licensing and franchise laws.

Just this week, at the NADA's request, we asked Sen. Daines to sign a letter to the Chairman of the Senate committee of Commerce, Science and Transportation. The letter asked that the senate version of the bill include language that explicitly maintains the states' traditional responsibility to license and regulate commerce of vehicles through state franchise laws. The letter is included at the end of this month's newsletter.

We also heard from our own Bill Underriner who is the NADA PAC chairman on the importance of contributing to the PAC and what it does to protect our dealerships. NADA PAC is NADA's political action committee and represents the interests of all franchised dealers of new cars and trucks by supporting pro-dealer congressional candidates of both political parties. I encourage all dealers to contribute



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to the NADA PAC, it is one of our strongest defenses against legislation that negatively impacts our family owned businesses. Only individuals from NADA member dealerships are eligible to contribute to NADA PAC. Dealers should log in with their membership information to the NADA PAC page at NADA's website and then click "NADA PAC Permission".

Overall it was a very productive trip. If you ever have the opportunity to go to D.C to the NADA Washington conference I highly recommend it.

If you have any questions on what is going on legislatively both locally or nationally please give myself or Bruce a call anytime. ■



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Failing to Maintain Lifts Endangers Employees, Risks Fines

Falling behind on documenting vehicle lift inspections in the service department is dangerous in itself. But it also can expose a dealership to unexpected and hefty fines from the Occupational Safety and Health Administration.

“If anything happens — an accident, a snap inspection, even a disgruntled employee reporting a violation — the first thing OSHA wants to see is the lift inspection documentation,” says Ed Gibbons, fixed operations specialist for Automotive Compliance Consulting Inc. of Crystal Lake, Ill.

“If it’s not in order, there can be hefty fines,” Gibbons told Fixed Ops Journal. “I’ve seen fines of \$15,000.”

Many lifts at dealerships and independent garages are in bad shape. Gibbons finds about a quarter of the lifts he inspects are out of compliance.

“I recently inspected lifts at a large dealership, and I failed 60 percent of them,” he says. He did not identify the store.

Even at the majority of dealerships that perform inspections regularly, problems can include missing or improper documentation or inspections performed by people who aren’t certified to do so.

That doesn’t matter to OSHA, Gibbons says. “That paperwork is the first thing OSHA will ask to review if there’s a complaint or injury, even if the injury that brought them there isn’t related to the lifts,” he adds.

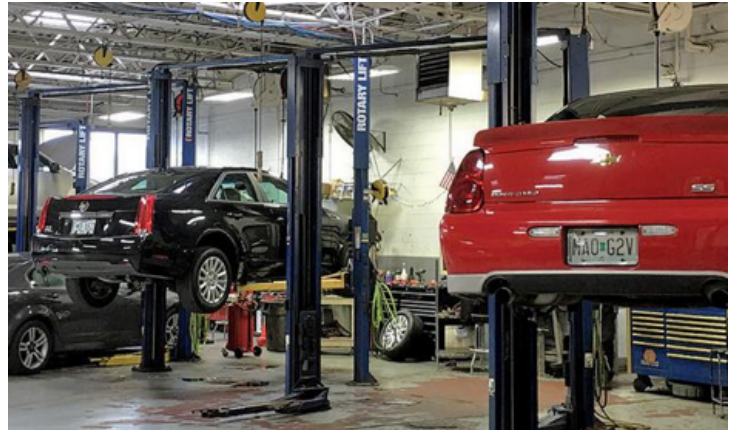
The most common mechanical failures Gibbons finds are loose nuts on floor anchor bolts and broken or missing pins on two-part extension arms.

“The pins that prevent the extension arms from sliding are often undersized for the weight of the part and can shear off during use,” Gibbons notes.

“The extension arms can weigh 50 pounds,” he says. “If a swing arm falls eight feet onto a technician’s foot, it can cause a serious injury.”

Look for Leaks

Another common mechanical flaw is a leaky hydraulic line, so checking for leaks should be part of the daily inspection routine.



“Deal with a leak immediately,” Gibbons says. “A bad leak is a potential slip-and-fall situation.”

OSHA doesn’t directly tally service department injuries. But the annual injury rate for new-vehicle dealerships in general was 3.5 for every 100 full-time-equivalent employees in 2015 — the latest year available — according to the Bureau of Labor Statistics, a branch of the U.S. Labor Department. Almost half of those injured workers needed time off to recover.

Tightening anchor bolts and replacing pins or hydraulic lines are not complicated or costly repairs, but the flaws are easy to miss. OSHA- required annual inspections of lifts are aimed at catching such maintenance lapses.

Each lift manufacturer sets standards for its own

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Maintaining Lifts CONTINUED FROM PAGE 7

equipment's annual inspection.

The OSHA paperwork includes inspection sheets and logs, along with certificates and stickers to be placed on each lift stating either that it is ready for use or that it is out of commission until a specific problem is fixed.

Playing by the Rules

Follow the OSHA process, Gibbons cautions dealerships.

"Disgruntled former employees know to contact OSHA about a real or perceived safety violation at a dealership, and they know OSHA goes after those complaints with zeal," he says.

Gibbons has been both a dealership service manager and the owner of an independent garage.

He notes that OSHA requires a qualified lift inspector, and staff maintenance employees are not qualified unless they have been trained.

"The essential component is to have a qualified inspector, and the compliance documentation they provide," he says.

He recalled one dealer's tale about a lift manufacturer's maintenance employee who inspected his lifts.

Instead of thoroughly documenting his work, he simply scribbled "inspected lifts" and the day on the receipt. OSHA rejected that documentation, and the dealer said he paid fines.

Separately, the Automotive Lift Institute, an industry trade association, provides lift standards, inspection certification, employee training and a list of certified inspectors.

Although service managers should always be prepared for OSHA inspections, Gibbons says, they should focus first on their employees.

"Don't just worry about OSHA," he says. "Worry about the fingers and toes of the tech who's been working for you for 10 years." ■

Source: Jesse Snyder, Fixed Ops Journal; You can reach Jesse Snyder at jsnyder@crain.com; Follow Jesse on Twitter: <https://twitter.com/spartyjesse>

Shop Uplift

To maintain workflow through the service department, prevent worker injury and promote safety related to the use of lifts, consultant Ed Gibbons recommends that dealerships

- Review lift maintenance documents
- Have each service technician inspect the lift he normally uses every day
- Inspect all lift hydraulic systems, valves, hoses, cables, chains, pins, spindles, electrical components, ramps, runway stops, locks and safety features
- Give lift operators refresher maintenance and safety training; operators must be trained on the lift they use
- Keep records of all training



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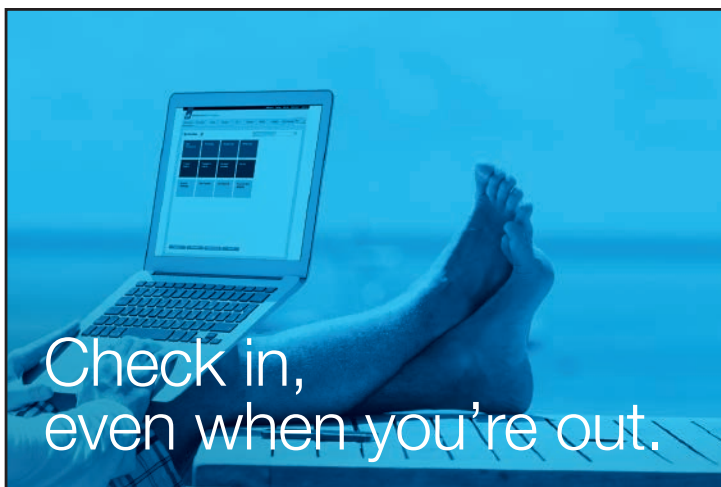
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Breast Cancer Awareness

In October, the buzz of Breast Cancer Awareness Month resonates in communities across the nation. Sports teams wear pink at their games. Organizations spearhead awareness walks. Individuals wear pink ribbons to honor those affected by the disease.

Yet, what exactly is this disease that kills more than 40,000 women in the U.S. each year? Breast cancer is a group of diseases that affects breast tissue. Symptoms can include the change in shape or size of the breast, pain in the breast, nipple discharge, and a new lump. However, some people have no symptoms of the disease.

Breast cancer follows only skin cancer as the most common cancer among women in the U.S. With every community in the nation impacted by this disease, many myths still persist. So, let's get a few things straight.

Myth: If a woman finds a lump in her breast, she must have breast cancer.

Truth: A small amount of lumps equate to cancer. However, she should talk to her provider if she finds a lump or notice changes in breast tissue. She should remember to perform self-exams on her breasts regularly to continue to monitor her health.

More than 2,000 men in the U.S. were diagnosed with breast cancer in 2014, and 465 men died from the disease.

Myth: If a woman's family members have had breast cancer, she'll develop it, too.

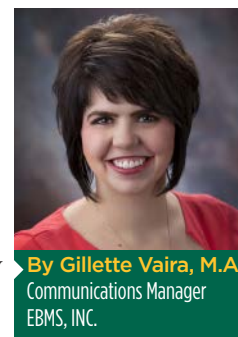
Truth: Having a family history of breast cancer can place people in a higher risk group.

However, only about 10 percent of women with breast cancer have a family history of the disease.

Myth: If a woman has BRCA1 or BRCA2 in her DNA, she will develop breast cancer.

Truth: Normally, the BReast CAncer susceptibility genes, BRCA1 and BRCA2, help protect women from getting cancer. However, when there are changes or mutations in one or both of these genes, cells are more likely to divide and change quickly, which can lead to cancer. She should talk to her provider to learn more about her personal situation. ■

Sources: www.cdc.gov, www.nationalbreastcancer.org



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

Breast Cancer in Younger Women

The risk of breast cancer affects all women. However, some factors can increase a woman's risk of getting the disease before age 45, such as the following:

- She has changes in breast cancer genes (BRCA1 and BRCA2) or have close relatives with these changes
- She has Ashkenazi Jewish heritage
- She has received radiation therapy to the breast or chest
- She has have had breast cancer or other breast health issues
- She has dense breasts

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.

September Trivia Contest

Win a \$20 Gift Card and a Chance to Win 4 Tickets to the Cat-Griz Game

The winner of last month's trivia question Montana holds a record in the Guinness Book of World Records for having the shortest what?" was Ernie Lee of Rimrock Auto Group with the correct answer "River". The Roe River runs between Giant Springs and the Missouri River in Great Falls, Montana, United States. The Roe River is only 201 feet (61 m) at its longest constant point. Towards its end, the Roe becomes surprisingly deep, at least 6-8 feet.

September Trivia Question

Montana's Glacier National Park, is commonly known as what?

Submit your answers to kwandke@mtada. All correct responses to this month's trivia question will be put in a drawing for a \$20 Amazon Gift Card. The winners of the monthly trivia questions will be put in the drawing for the grand prize, four tickets to the Cat-Griz Game!! **Good Luck!**



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United States Senate

September 27, 2017

The Honorable John Thune
Chairman
Senate Committee on Commerce, Science and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce, Science and Transportation
425 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Thune and Ranking Member Nelson:

I support your leadership in driving U.S. technological advancement and innovation regarding automated vehicles, and the goals of the “American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act” (AV START Act). Automated vehicles (AVs) hold great promise to improve vehicle safety, expand mobility options, and decrease traffic congestion. As draft language is finalized for introduction, a key element is clarifying the appropriate federal and state roles with respect to automated vehicles. I urge the Senate Commerce, Science, and Transportation Committee to preserve the historic and appropriate divide between the federal government’s authority to regulate the design and safety of motor vehicles and the state’s authority to regulate the operation and commerce of motor vehicles.

One area of concern is the broad preemption of state laws on motor vehicle commerce. Long-standing state franchise and vehicle licensing laws include vital consumer protections, and regulate the economic relationship between automakers and small business dealers. These laws help to ensure a level playing field which is critical to encouraging competition and promoting consumer adoption of automated vehicles.

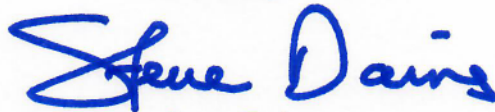
I am encouraged that a staff draft of this legislation includes “placeholder” language designed to clarify that the preemption language in the bill does not preempt state or local laws regarding the “sale, distribution, repair, or service” of AVs. Prior to the consideration of the bill, I urge you to include language that preserves the traditional state role of regulating the operation and commerce of vehicles such as, registration, distribution, service, insurance, law enforcement, and inspections. Similar language was adopted by the House in their AV bill, H.R. 3388.

While I encourage federal legislation pertaining to automated vehicles, I believe that a balanced approach is necessary that preserves the long-standing divide between the federal government’s role in

regulating the design and safety of passenger vehicles and the state's role in regulating areas such as licensing and franchising laws. For example, vehicles with autonomous capabilities should be subject to the same state consumer protections as the motor vehicles on the road today. Without such protections, many state laws, including ones governing vehicle warranties, recalls, and lemon laws might be struck from the books.

I respectfully urge you to include language explicitly maintain the states' traditional responsibility to license and regulate the commerce of vehicles. I strongly support the Committee's bipartisan efforts to appropriately tailor the bill to advance the development and testing of automated vehicle technologies that will be a great benefit to American industry, small businesses, and consumers. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Steve Daines". The signature is fluid and cursive, with the first name "Steve" and last name "Daines" clearly legible.

Steve Daines
United States Senator

cc: The Honorable Gary Peters



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