Our annual update on major federal regulations; state laws also apply and are sometimes even stricter.

In addition to this guide to laws and regulations, be sure to consult the NADA & ATD Federal Regulatory Compliance Chart, available at www.nada.org/regulations (requires member access). It lists federal laws and regulations by agency, notes to whom they apply, and offers Web addresses for further information.

### All Departments (General Management/Personnel)
- Age Discrimination in Employment Act
- Americans With Disabilities Act
- COBRA
- Electronic deposit of taxes
- Electronic records retention
- Emergency-response planning
- Employee drug testing
- Employee Polygraph Protection Act
- ERISA
- Equal Pay Act
- Estate tax repeal
- Family and Medical Leave Act
- Federal child-support enforcement
- Federal Civil Rights Act
- FTC repossession rule
- Federal wage-hour and child labor laws
- Health Insurance Portability and Accountability Act
- Immigration Reform and Control Act
- IRS treatment of car shuttlers
- IRS treatment of demo vehicles
- Mandatory workplace posters
- Mental Health Parity Act
- Miscellaneous record-keeping requirements
- Newborns’ and Mothers’ Health Protection Act
- OSHA blood-borne pathogens rule
- Section 89 of the Tax Reform Act
- Section 179 Expensing
- USERRA

### All Departments (Customer)
- Age Discrimination in Employment Act
- Americans With Disabilities Act
- Age Discrimination in Employment Act
- Americans With Disabilities Act
- COBRA
- Electronic deposit of taxes
- Electronic records retention
- Emergency-response planning
- Employee drug testing
- Employee Polygraph Protection Act
- ERISA
- Equal Pay Act
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### New- and Used-Vehicle Sales Departments
- American Automobile Labeling Act
- DOD/DOE gas-mileage guide
- EPA emissions certification
- Federal bankruptcy law
- FTC door-to-door sales rule
- FTC guidelines for fuel-mileage advertising and alternative-fuel advertising
- FTC Used-Car Rule

### Body Shop
- Clean Air Act
- EPA hazardous waste rules
- OSHA Hazard Communication Standard
- OSHA Respiratory Protection Standard
- OSHA workplace health and safety standards
- VIN and parts marking

### Service and Parts Department
- Clean Air Act
- Clean Water Act
- DOT hazardous materials-handling procedures
- IRS Core Inventory Valuation
- LIFO/FIFO Inventory Accounting Method
- NHTSA tampering regulations
- NHTSA tire rules
- OSHA asbestos standards
- OSHA Hazard Communication Standard
- OSHA lift-out/lag-out procedures
- OSHA workplace health and safety standards
- RCRA
- Safe Drinking Water Act
- Superfund

### Parts and Parts Department
- American Automobile Labeling Act
- DOE/EPA gas-mileage guide
- EPA emissions certification
- Federal bankruptcy law
- Federal Civil Rights Act
- FTC repossession rule
- Federal wage-hour and child labor laws
- Health Insurance Portability and Accountability Act
- Immigration Reform and Control Act
- IRS treatment of car shuttlers
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Requires employers with 20 or more employees to continue health-care coverage for employees for 18 to 36 months, depending on employee circumstances.

Electronic deposit of taxes: The IRS requires all employers having more than $250,000 in aggregate depository taxes to deposit electronically through the Electronic Federal Tax Payment System.

Electronic records retention: Revenue Procedure 98-25 explains the IRS requirements for retaining computerized accounting records.

Emergency response planning: Different federal, state, and local laws require dealers to have emergency-response plans.

Employee drug testing: Unionized dealerships must bargain with employee unions before implementing a drug policy that affects current employees. Bargaining is not necessary for pre-employment drug testing. The Americans With Disabilities Act prohibits employers from discriminating against employees or applicants who have completed a drug treatment program or are currently undergoing such a program, as long as they are not currently abusing drugs.

Employee Polygraph Protection Act: Prohibits employers from using polygraphs in preemployment screening; allows polygraph use only in limited cases where the employee is reasonably suspected of a workplace incident involving economic loss to the employer.

Employee Retirement Income Security Act (ERISA): Dealers offering retirement plans must provide employees with plan info, keep records, abide by fiduciary responsibilities, and set up a grievance process.

Equal Pay Act: Amends the Federal Wage-Hour Law, prohibiting wage discrimination on the basis of sex.

Estate tax repeal: The estate tax exemption incrementally increases from $2 million to $3.5 million in 2009, as the top tax rate falls from 46 percent to 45 percent from this year through 2009, with repeal in 2010.

Family and Medical Leave Act: Businesses covered by this law must post the act’s provisions and inform employees of their right to take this limited, unpaid leave for personal and family medical emergencies.

Federal child-support enforcement regs: Requires states to have procedures under which liens can be put on personal property—including vehicles—for overdue child support.

Dealers should check that child-support liens don’t exist on used cars. Employers must place liens on wages of employees who are delinquent on child-support payments.

Federal Civil Rights Act: Bans employment discrimination on the basis of sex, race, color, national origin, religion, or age. Prevents employers from asking job applicants certain questions (such as age, marital status, or color of hair) or taking any action that shows discrimination.

Federal Trade Commission’s repossession rule: Requires a formal accounting of money collected for repossessed vehicles.

Federal wage-hour and child labor laws: Set minimum wage and overtime pay standards; describe which employees are exempt from minimum wage and overtime requirements.

Health Insurance Portability and Accountability Act: Generally prohibits health insurers from denying coverage to workers who lose or change jobs and bars insurers from excluding coverage for pre-existing conditions; and sets standards for employing minors, including teen driving restrictions.

Mandatory workplace posters: Notices, such as “Your Rights Under the FMLA” (where there are 50-plus employees), “Equal Employment Opportunity Is the Law,” “Federal Minimum Wage,” and “Notice: Employers: Polygraph Protection Act,” must be conspicuously displayed.

Mental Health Parity Act: Requires insurers and employers to offer health-care coverage for mental illness comparable to that for physical illness. Group health plans may not set dollar limits on mental health care lower than limits for general medical and surgical services. (Nothing requires employers to provide mental health coverage, and a number of exemptions apply.)

Mississippi record-keeping requirements: A multitude of requirements governing labor and employment law records are required to be maintained. Examples: Personal and corporate income tax records must be kept at least three years; tank notification forms for each underground storage tank must be kept indefinitely; copies of Form 940 each employer must be kept for five years.

Newborns’ and Mothers’ Health Protection Act: Employers and insurance companies must provide health care to newborns whose mothers suffer injuries or who lose or change jobs and bars insurers from excluding coverage for pre-existing conditions for more than a year. Dealers with partially or fully self-insured health plans that generate $5 million or less in annual premiums must notify employees, retirees, or beneficiaries about their privacy rights and how their info could be used; to designate someone to oversee the adoption and implementation of procedures to control the use and release of such data; to train staff to understand those procedures; and to secure patient records containing such info so that it’s not available to people who don’t need it. The rule does not apply to workers’ comp and ADA compliance info.

Immigration Reform and Control Act: Prohibits knowingly hiring illegal aliens and requires that employers complete and retain a form certifying that new employees are authorized to work in the United States.

IRS treatment of car shuttlers: Although under general IRS rules, shuttlers may be considered employees, versus independent contractors, the IRS may consider prevailing industry practices on a case-by-case basis. The agency may ask, for example, how many days a week an individual works at a dealership and whether he or she works for any other dealership.

IRS treatment of demo vehicles: Revenue Procedure 2001-56 offers dealers alternative methods for determining the value of demo use by qualified salespeople and other dealership employees. It defines what constitutes limited personal use and streamlines record-keeping requirements.

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Electronic deposit of taxes: Revenue Procedure 2001-56 offers dealers alternative methods for determining the value of demo use by qualified salespeople and other dealership employees. It defines what constitutes limited personal use and streamlines record-keeping requirements.

Driver’s Privacy Protection Act: Denies access to personal info in state motor vehicle records except for limited purposes, such as driver safety, theft, and recalls. Also restricts the release of personal info for marketing.

FTC Privacy Rule: Dealers must issue notices of their privacy policies to their finance and lease customers and, in some circumstances, when the dealer discloses nonpublic information about consumers to third parties. Also restricts disclosures of nonpublic personal information.

Uniformed Services Employment and Reemployment Rights Act (USERRA): Governs employment and reemployment rights of members of the U.S. uniformed services.
Dealers must make this guide available to prospective new-vehicle buyers. Dealers may loan or give away large, new passenger vans with more than 10 seating positions if they know the vehicle will be used to transport students to or from school or school activities. Schools must purchase or lease a school bus or multifunction school activity bus for such purposes.

Dealers must search their records and provide a form to new-vehicle customers certifying the vehicle’s compliance with emissions standards. Dealers who significantly alter new vehicles must affix a label identifying the alteration and stating that the vehicle still meets federal safety and theft requirements.

Dealers receiving more than $10,000 in cash in one transaction or in two or more related transactions must report on IRS/FinCEN Form 8300. “Cash” includes certain cashier’s checks, traveler’s checks, money orders, and bank drafts.

Dealers displaying warranties temporarily exempt from the law’s anti-money-laundering program requirements.

Dealers must display warranties near product or post signs in prominent places selling consumers copies of the warranties are available for review.

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Regulations

- Fair Credit Reporting Act (FCRA): Dealers are restricted in their use of credit reports for consumers, job applicants, and employees. Consumers’ reports may be obtained only pursuant to consumers’ written instructions or if consumers initiate a business transaction (not if they merely talk with salespeople). Dealers must give job applicants and employees a separate document informing them that a credit report may be obtained and they must obtain prior, written authorization to access the report. If dealers act in good faith based on the report, they must notify consumers and follow additional procedures with job applicants and employees. Dealers have hereinafter have other responsibilities. See the FTC’s Notice to Users of Consumer Reports at www.ftc.gov/os/2004/11/041111factapppl.pdf.

- The Fair and Accurate Credit Transactions (FACT) Act of 2003 significantly amended FCRA by adding several new anti-identity theft and other duties with differing implementation dates. New duties already in effect involve requests for records from victims of ID theft, fraud and active-duty alerts on credit reports, disposal requirements for credit report info, opt-out disclosure for mortgage requirements, credit authorization requests, and the Federal Reserve Board’s new Regulation FF restrictions on obtaining, using, and sharing “medical information” in credit transactions.

- FTC Credit Practices Rule: Dealers are required to provide a written disclosure statement to a consumer before the consumer signs an installment sales contract. Dealers cannot “pyramid” late charges (that is, tack a late charge onto a payment made in full and on time when the only delinquency was a late charge on a previous installment).

- Gramm-Leach-Bliley Act: See “FTC Privacy Rule” and “FTC Safeguards Rule” under “All Departments (Customer).”

- Producer-Owned Reinsurance Companies (PORCs): IRS Notice 2004-65 removed certain reinsurance arrangements as “listed transactions” but states that the IRS will continue to scrutinize transactions that shift income from taxpayers to related companies “purporting to be insurance companies that are subject to little or no U.S. federal income tax.”

- Truth in Lending and Consumer Leasing acts: Regulations Z and M cover consumer credit and consumer leasing transactions, respectively, specifying information to be disclosed to a consumer before completing the transaction, and information to be disclosed when advertising consumer credit transactions or leases. For example, dealers who advertise a lease down payment or monthly payment amount must disclose in lease ads that the advertised deal is a lease; the total amount due at lease signing; number, amount, and period (for example, monthly) of payments; and whether a security deposit is required.

Service and Parts Department

- Clear Air Act: Dealerships are prohibited from tampering with, replacing, or removing emissions-control equipment such as catalytic converters. CFC recycling regs require dealership air-conditioning techs to obtain certification and to use certified recycling and recovery equipment to capture spent refrigerant, including HFC-34a and other non-ozone-depleting refrigerants. Dealers must pay a 45-cents-per-pound floor-stock tax on CFCs. Dealers with less than 400 lb. in stock are exempt. The act also regulates emissions of fuels dealers store and dispense as well as the alternative fuels dealers use and sell, including ultra-low-sulfur diesel. It restricts emissions from solvents and chemicals used.

- Clean Water Act: See “Service and Parts Department.”

- Department of Transportation (DOT) hazardous materials-handling procedures: Require parts employees who load, unload, and package hazardous products, such as airbags, batteries, and brake fluid, to be trained in safe handling practices.

- IRS Core Inventory Valuation: Revenue Procedure 2003-20 created an optional method for valuing core inventories for taxpayers who use the lower of cost or market valuation method.

- LIFO/FIFO Inventory Accounting Method: Revenue Procedure 2002-17 provides a safe-harbor method of accounting that authorizes the use of replacement cost to value year-end parts inventory.

- NHTSA tampering regulations: Prohibit dealers from rendering inoperative safety equipment installed on used vehicles in compliance with federal law.

- NHTSA tire rules: Dealers must report sales of defective tires when the tires are sold separately from vehicles, and properly manage recalled tires.

- OSHA asbestos standards: Dealerships must use certain procedures during all brake and clutch inspections and repairs to minimize workplace exposure. Water, aerosol cleaners, or brake washers should be used during brake inspections and repairs to comply with the standard.

- OSHA Hazard Communication Standard (Right-to-Know laws): Employers must inform staff about chemical hazards they are exposed to in the workplace, keep chemical product info sheets on-site where employees have access to them, and train staff to properly handle the hazardous materials with which they work. Also, under EPA’s Community Right to Know regulations, dealers must list annually with state and local authorities any tank holding more than 1,600 gallons.

- OSHA lock-out/tag-out procedures: Explain what service departments must do to ensure machines, including vehicles, are safely disengaged before being serviced.

- Resource Conservation and Recovery Act (RCRA): Comprehensive environmental law regulating many dealership functions, including underground storage tanks and the storage, management, and disposal of used oil, antifreeze products, and other hazardous wastes. Underground tanks must be monitored, tested, and insured against leaks; leaks and spills must be reported to federal and local authorities and cleaned up. Also regulates new-tank installations. Dealers must obtain EPA ID numbers if they generate more than 220 lb. per month (about half of a 55-gallon drum) of certain substances and must use EPA-certified haulers to remove the waste from the site.

- Safe Drinking Water Act: To protect underground drinking water from contamination, dealerships may be barred from discharging waste liquids, such as used oil, anti-freeze, and brake fluid, into septic system drain fields, dry wells, cesspools, or pits.

- Superfund (Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA]): As waste generators, many dealerships are subject to Superfund liability. Dealers must be careful when selecting companies to haul waste off-site. Dealers can deduct the cost of cleaning up contaminated soil and water in the year it’s done. Dealers may qualify for an exemption from liability at sites involving used oil managed after 1993. The Service Station Dealer

Exemption Application (SDEE) requires dealers to properly manage their oil and to accept oil from do-it-yourselfers.

Body Shop

- Clear Air Act: National paint and hazardous-air-pollution controls require reformulated, environmentally safer paints and finishes.

- EPA hazardous-waste rules: See “RCRA” under “Service and Parts Department.”


- OSHA Respiratory Protection Standard: Work training programs describing how to select, fit, and maintain respirators to protect body shop workers from hazardous chemicals.

- OSHA workplace health and safety standards: These extensive regulations affect body shops in many ways, including mandating the use and care of protective equipment, such as face masks, gloves, and respirators. Hex chrome standard limits air emissions during sanding and painting. See also “Service and Parts Department.”

- VIN and parts marking: Dealers may not alter, destroy, or tamper with vehicle identification numbers or anti-theft part-marking ID numbers and should use properly marked replacement parts.