

# NEW JERSEY

## auto retailer

Issue 2 | 2021

**Eligible EVs Can Receive  
Cash-On-The-Hood  
Incentives Up To \$5,000**

**Page 17**

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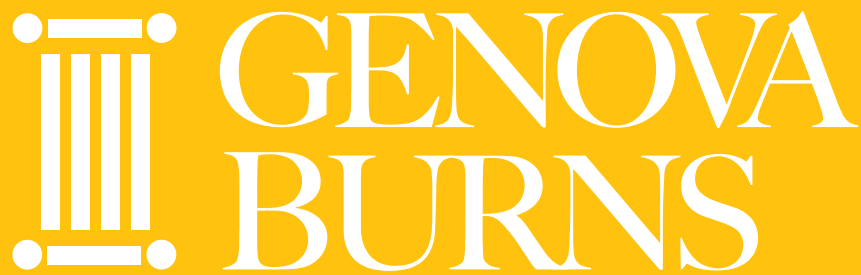
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**Chairwoman's** MESSAGE | BY Judith A. Schumacher-Tilton

## New Jersey Dealers Work To Raise \$500,000 For The Valerie Fund



**New Jersey's neighborhood new car and truck** dealerships have partnered with The Valerie Fund to raise \$500,000 to benefit thousands of children with cancer, sickle cell anemia and blood disorders in 2021. This incredible organization provides children with access to individualized care at one of their seven (7) centers located at pediatric hospitals throughout the New Jersey, New York and Philadelphia areas.

In early July every dealership and Associate Member of NJ CAR should have received a letter announcing the launch of this statewide campaign and asking for a donation, based on the number of locations represented by the dealership or dealership group, as well as support of past Valerie Fund campaigns, if applicable.

**If you haven't already done so, I ask that you step up and support the Valerie Fund by filling out a Donation Commitment Form at <https://thevaleriefund.org/specials/NJAutoDealerUnite/>.** Add your dealership(s) name(s) to the growing list of participating dealers and other contributors on the NJ CAR website (<https://njcar.org/new-jersey-auto-retailers-unite-to-support-the-valerie-fund/>) and help our fundraising total continue to grow.

As of August 3, 2021 more than 60 dealerships and Associate members had already contributed nearly \$250,000.

While the funds raised for The Valerie Fund will support thousands of children, we also want to help dealerships

promote their involvement in their community. All contributing dealerships will have access to a growing list of value-added benefits including:

- Personalized kick-off meeting to take full advantage of marketing opportunities
- Recognition of dealership(s) on both NJ CAR and Valerie Fund websites
- Rights to share a Valerie Fund & NJ CAR-produced PSA
- Social media graphics you can utilize on Facebook, Twitter, Instagram & LinkedIn
- Collateral materials (posters, counter cards, window clings) for each dealership location
- Right to use Valerie Fund & New Jersey Auto Retailers Unite logos in dealer advertising
- Press release, print/television/radio ad & billboard templates for dealer marketing
- Email marketing to Valerie Fund database of 25,000 supporters
- Campaign-wide stories on NJ CAR and Valerie Fund websites
- Campaign-wide radio (WCBS 880, WFAN), television (CBS, Verizon FIOS, Comcast), Billboard (CBS Outdoor, Interstate Media) and Press Releases

### About The Valerie Fund

Founded in 1977, The Valerie Fund is committed to children fighting sickle cell disease, cancer, and other blood disorders. Sickle cell disease is a debilitating, life-long inherited blood disorder that mostly affects African

**CHAIRWOMAN'S MESSAGE** continued on page 8



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**CHAIRWOMAN'S MESSAGE** *continued from page 6*

Americans. It is an under-recognized and underfunded disease, and it has no cure. The Valerie Fund proudly supports 1,500-2,000 children effected by sickle cell disease, and their families, every year at their seven centers. In addition, The Valerie Fund offers critical programs including social workers, child life specialists, educational liaisons, integrative medicine, palliative care, psychologists, survivorship programs, educational scholarships and a week-long overnight camp. Learn more at [thevaleriefund.org](http://thevaleriefund.org). **njcar**

Please go to <https://thevaleriefund.org/specials/NJAutoDealerUnite/> **AS SOON AS POSSIBLE** and fill out the Donation Commitment Form!

New Jersey car dealers are always there to help. Thank you to everyone who has contributed for uniting for this cause. If you haven't yet made a donation, **WHAT ARE YOU WAITING FOR?**




# THANK YOU

## NJ Auto Retailers, for driving The Valerie Fund forward!

Living with sickle cell disease, other blood disorders  
or cancer creates enormous challenges,  
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**President's MESSAGE** | BY JAMES B. APPLETON



# New Jersey Must Support Universal EV Charging, NOT A Segregated Network



**NJ CAR has been vocal for years** about the need for an expanded electric vehicle (EV) charging network to help consumers overcome "range anxiety." An expanded network is necessary to make consumers comfortable in their decision to purchase a battery-electric or plug-in hybrid vehicle. The State is finally putting money into expanding New Jersey's EV charging network and even looking to streamline the approval process for installing EV chargers.

This is great news, but NJ CAR wants to make sure investment and incentives are targeted at expanding charging options available to all EV owners, regardless of the nameplate on their vehicle.

Just a few weeks ago, NJ CAR sent a letter to the New Jersey Board of Public Utilities regarding the board's proposal for an aggressive EV charging infrastructure build-out to help New Jersey meet its ambitious goal of selling more than 330,000 EVs by 2025 and at least two million EVs by 2035.

We emphasized that New Jersey's franchised new car and truck dealers offer more than 40 models with a plug right now and will be offering dozens more in virtually every shape and size and at virtually every price point in the next few years.

The BPU's proposal offers a sensible approach to encourage the development of EV infrastructure, allowing public utilities to recover the cost of making DC Fast Charging sites ready, but leaving the installation and operation of DC Fast Chargers to Electric Vehicle Service Providers (EVSPs) and non-public utility entities.

But there is a glaring omission. The proposal does nothing to address a serious problem that has been ignored for too long: **not all DC Fast chargers are available to all EV drivers.** Tesla has built, and continues operating, a segregated charging network available only to Tesla drivers. Every other EVSP deploys chargers that can be utilized by all EVs, including Tesla vehicles.

Tesla's plan has always been to build a vertically integrated monopoly that controls everything from the design and manufacture of EVs to distribution, sales, service and even charging. NJ CAR has strongly voiced our opposition to the BPU permitting any ratepayer-funded investment to support a segregated Tesla charging network. Public utility support to make ready Tesla DC Fast chargers simply should not be part of the equation so long as Tesla chooses to maintain a segregated charging network.

Less than half of the 40,000 vehicles with a plug registered in New Jersey are Teslas, and the sales of competing EV models are growing at three-to-four times the rate of Tesla sales. Any proposal adopted by the BPU must include a mechanism to ensure Charger Ready investment only supports projects that serve all EV drivers. No State or ratepayer-funded support should be given to charger-ready investments to build out a segregated charging network. **njcar**





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**NADA Director's MESSAGE** | BY RICHARD A. DESILVA, SR.

# Dealers Are Essential to Broader EV Adoption



**NJ CAR** has long made the case that New Jersey's neighborhood new car and truck dealerships are much better equipped to lead the electric vehicle (EV) revolution currently underway. Sure, Tesla made EVs sexy, but they offer four models in a handful of colors. Franchised dealers currently offer more than 40 battery and plug-in hybrid models in every shape and size and at virtually every price point. At the rate new announcements are making the headlines, that number could increase to 140 models in just a few years.

NADA is now taking up the EV mantle, with a blog post recently authored by Mike Stanton, NADA President and CEO, entitled "*Dealers Are Essential to Broader EV Adoption.*" Below is a shortened version of the story, but I encourage everyone to read the complete story at <https://blog.nada.org/>.

## Dealers Are Essential To Broader Electric Vehicle Adoption

Earlier this year, when Ford unveiled the F-150 Lightning, it ushered in a new – and long overdue – era of battery-electric vehicles built not to fill niches within the American car market but for the bulk of it.

This unveiling was a watershed moment in automotive history. That's because the F-150 Lightning is far more than just a truck. And it's more than just an electric truck. It's the vanguard of a wave of vehicles that can finally bridge the gap between the battery-electric vehicles we have now and the BEVs that can truly make an impact on our climate over the long-term by appealing to the vast majority of American car and truck buyers.

Franchised dealers have been waiting for this moment for years. Dealers are "all in" on EVs and incredibly excited about the new electrified products being announced almost daily. And dealers are hungry for the sales and service opportunities that are going to come with having numerous new EV models to sell.

And while today's EVs are exceptional, the reality is that many of them appeal to supporters of reducing greenhouse gas emissions or luxury vehicle buyers who want cutting-edge technology and performance.

One of the great mistakes we make in assessing our progress on converting America's fleet to electric is assuming that today's EV buyers will look like the EV buyers of tomorrow. This simply isn't true.

It is undisputed that Tesla has been extremely successful at selling its products. But does Tesla's success prove that you can sell EVs in great quantities in America? Does it reveal the path to the mass adoption of EVs? The short answer is a resounding "NO!"

Tesla has proven you can successfully sell Teslas to a certain small subset of the car-buying public. To date, American EV buyers are vastly different from ICE-vehicle buyers. In particular, EV buyers are typically much wealthier, much better informed about EVs and are acquiring their third, fourth or fifth car.

Not only are America's current EV buyers willing to pay full list price, but many of them also wear it as a badge of honor that they've done so. They know exactly what they want, so they don't need to talk to a salesperson, either about the car or about financing. And because they tend to have multiple vehicles in their personal or family fleet, they are much more likely to be willing to wait for delivery, live with range limitations, live with the time and planning it takes to recharge, and deal with service delays.

But this buyer type is not likely to dominate the EV market over the coming years. Why? Because the vehicles are changing. And as the EV market moves further into the mainstream, its customers will come to resemble the average car buyer more and more.

This is a good thing! All dealers should be ecstatic that going forward, when we talk about how to foster adoption of EVs in the U.S., we won't be talking exclusively about how to market expensive sports cars and luxury SUVs, but instead will be talking about how to best market electric pickup trucks and other moderately priced EV options.

It's the EV customers of the future we need to cater to if we are to have meaningful and broad EV adoption.

And we can finally start to think realistically about doing so. We are essentially at the doorstep of selling a wide variety of EVs – real, functional, non-niche EVs – to mass-market car buyers for the first time. And to sell effectively to mass-market buyers, you need to capitalize on what has worked for mass-market buyers for generations.

Things like consumer education about the product, help with comparing models, working with a customer's budget constraints, financing assistance, helping with trade-ins, allowing test drives, and – yes – even good old-fashioned tire kicking. And this is all in addition to the new challenges specific to EVs, such as the complexities of charging – the fact, for instance, that electric rates vary based on the time of day and the level of charge – and other variables that don't exist in the ICE market.

Dealers are absolutely essential in this world of new EVs. Because once you get into the mass-market, you will not

achieve broad acceptance of any product, regardless of how it's powered, by rejecting the attributes of the sales and service process that mass-market vehicle buyers are accustomed to and depend on to confidently choose the right vehicle at the right price that best meets all their needs.

Opponents of the franchise system have long said dealers are an impediment to EV sales in the U.S. This has never been true. And moving forward, this type of thinking will be dangerous if our goal is to sell a greater number of EVs to a broader segment of the American market.

This is a critical juncture. It's a good time for policymakers and stakeholders to think critically about what it will take to sell EVs in greater volumes to customers who haven't yet experienced EVs. The reality is that it's going to take a lot. It's going to take a network of tens of thousands of retail and service points located in just about every corner of the country, not just a website.

It's going to take hundreds of thousands of knowledgeable sales staff, not just a 1-800 number.

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## Assembly Majority Leader Lou Greenwald and Senator Bob Smith

NJ CAR represents the 500+ neighborhood, franchised new car and truck dealerships in New Jersey and the 36,500 men and women they directly employ. We want to help the industry get to know its elected officials better. What follows are responses from Senator Bob Smith (District 17) and Assembly Majority Leader Lou Greenwald (District 6). We will share other replies via emails and in future issues of *New Jersey Auto Retailer*.

### Senator Bob Smith



#### What inspired you to run for office and become a legislator?

Reading the newspaper as a newspaper delivery person in my teens and as a Street Corner Speaker for Gene McCarthy in 1968.

#### What are your greatest achievements and greatest disappointments as a legislator?

#### If you could change one thing in Trenton, what would it be?

Greatest achievement – the Highlands Act and other environmental legislation. Greatest disappointment – how long it takes to get legislation passed and changing the Whitman pension bond issue.

#### What are the legislative priorities, issues or areas of concern on which you would like to focus your attention?

Grid-Scale Solar, Dual Use Solar, Recycled Content, Energy Efficiency Standards for Appliances, C-Pace and Neonics.

#### Coming out of the pandemic, what are the lessons you've learned, and how do you believe those lessons should guide public policymakers going forward?

The need for more effective communication with our constituents and the public at large.

#### What was the make and model of the vehicle in which you learned how to drive? Also, what was the first (new or used) vehicle you owned?

'57 Chevy, which was my first used car.

#### Senator Smith's Bio:

Senator Bob Smith represents District 17, which covers parts of Middlesex and Somerset County, including Franklin (Somerset), Milltown, New Brunswick, North Brunswick, and Piscataway.

Senator Smith joined the New Jersey Legislature in 1986 as an Assemblyman and was elected to the Senate in 2002. He is the Chair of the Environment and Energy Committee and is also a member of the Judiciary Committee.

He is a graduate of the University of Scranton, where he majored in History and received a Master's Degree in Chemistry. He also earned a Master's Degree in Environmental Science from Rutgers University and his juris doctor from Seton Hall University of Law. Before becoming an attorney in private practice, Senator Smith was a professor of Chemistry and Environmental Science at Middlesex County College.

He and his wife Ellen live and work in Piscataway Township. They are parents to two grown daughters and are proud grandparents.

### Assemblyman Lou Greenwald, Majority Leader



#### What inspired you to run for office and become a legislator?

I owe my inspiration for public service to my mother, Maria Barnaby Greenwald. When I was just 10 years old, she became the first female mayor of Cherry Hill. She continued breaking ground after becoming the first female Freeholder Director and first female Surrogate of Camden County. Despite these remarkable achievements, what I remember most about her were the relationships she made with the constituents she served. Trips to the grocery store would take three hours because she would always stop to talk with neighbors and listen to their concerns. She was well known as someone who would hear from as many people as possible and discuss all sides of an issue before making a decision.

After she passed away, I was approached to run for Assembly, and despite not having held public office before, I knew that I wanted to continue my mother's legacy. I



have been representing the 6th District since 1996, and it is the only elected office I've ever held. Each and every day, I try to follow in her footsteps by making sure everyone I represent is able to voice their opinion and is given an audience when doing so. It is the way my mother led, and it is the right way to do so.

### **What are your greatest achievement and greatest disappointment as a legislator? If you could change one thing in Trenton, what would it be?**

My greatest achievement as a legislator came back in 2003 with auto insurance reform. Before I became a legislator, I had paid my way through law school selling cars. I was able to see firsthand how, for so many families, buying a car was one of their most important purchases. Yet many of these people, even after making their first payment, could not drive their car because they were not able to afford the insurance. In the early 2000s, auto insurers were leaving the state in droves due to costly regulations, forcing rates to skyrocket and thousands to go uninsured. The reforms we made – giving consumers more power over their policies and increasing competition in the market – brought auto insurers back to the state and once again gave consumers affordable choices. Within a year after enacting the legislation, over 37,000 previously uninsured drivers could get insurance, and lower rates and voluntary refunds meant more than \$133 million was returned to over 1 million policyholders. Today, New Jersey has the lowest uninsured motorist rate in the nation, thanks to the work we did.

But a problem that has persisted has been property taxes. If you asked anyone around the time I was elected what their biggest issues in NJ were, auto insurance and property taxes would always be number one and two on that list. And despite all we've done to make property taxes more affordable for NJ residents – setting us on a path toward fully funding our schools, fully funding the Homestead Rebate program, incentivizing shared services and consolidation – we still haven't been able to lower property tax bills. Unfortunately, NJ has had the distinction for many years of being the state with the highest property taxes in the nation. And the \$10,000 cap on the State and Local Tax Deduction (SALT), passed as part of Trump's tax policy, is only making it harder for NJ residents to become homeowners. Perhaps my greatest disappointment as a legislator has been our inability to make structural changes to the way we fund local government. If I could change one thing in Trenton, it would certainly be updating this antiquated system to make NJ more affordable for working and middle-class families.

### **What are the legislative priorities, issues or areas of concern on which you would like to focus your attention?**

As I mentioned, property tax reform needs to be somewhere at the top of that list. The pandemic really exposed the issues with relying on property taxes to fund local government. Unlike the income tax, which decreases during times of financial distress, your property tax bill is blind to your economic situation. We provided some relief to homeowners during the pandemic, such as moving back the deadline to

file property taxes, fully funding the homestead rebate, and even beginning a program in the most recent budget to send direct tax rebates to thousands of middle class and working-class families. But without the needed structural changes, NJ families are still going to struggle with their property tax burden as they recover from the pandemic, especially if the SALT deduction cap is not repealed.

Mental health has also been especially concerning during the pandemic. Social isolation, job loss, and the loss of loved ones have caused anxiety and depression symptoms to spike, and if left unaddressed, I truly see this as the next looming public health crisis. According to a report by the New Jersey Hospital Association, 42% of respondents reported anxiety and/or depression symptoms between January and February 2021, yet 20% of those people reported that they had an unmet need for counseling and therapy. The issue is especially concerning with young people, who have had to deal with drastic changes to their social and emotional development. According to the same report, between April and Dec. 2020, the proportion of those under 18 coming to the ER with anxiety symptoms increased 74% compared to 2019. Those coming to the ER with depression symptoms increased by 84%. That is why, over the course of the past year, I have been working on a package of bills to increase mental health services in schools. A recent package of bills I introduced will help increase access to these vital mental health services in the community and ensure that those who come to the ER with mental health issues can be connected with the appropriate behavioral health providers.

Finally, the work we have been doing to support small businesses during the past year cannot stop. Even though our state has been loosening COVID restrictions as more people get vaccinated, small businesses are still feeling the effects of the pandemic. We've done some great work in providing relief, such as the \$50 million we appropriated to small businesses and microbusinesses through the Economic Recovery Act of 2020, the \$235 million for small business relief recently signed into law, and our recent commitment to dedicate additional federal dollars to these important programs. But without continued support, many small, family-owned businesses will struggle to stay afloat.

### **Coming out of the pandemic, what are the lessons you've learned, and how do you believe those lessons should guide public policymakers going forward?**

To me, the biggest takeaway from this past year is that you cannot ignore a problem until it reaches a crisis point. We've dealt with major disasters in this state before, like 9/11 and Superstorm Sandy. Those events certainly had considerable impacts on the entire state, but they did not affect every single resident the way COVID did. Problems we faced going into the pandemic – such as middle-class affordability, access to mental health services, etc. – have only been made worse over the course of the past year. Going forward, we as legislators need to be proactive in addressing our state's significant issues before they spiral out of control. It should not have to take a worldwide pandemic to expose the cracks in our system, but COVID was certainly a wake-up call that

**5 QUESTIONS** *continued on page 16*

**5 QUESTIONS** *continued from page 15*

there is more that needs to be done to protect our residents should something like this happen again.

**What was the make and model of the vehicle in which you learned how to drive? Also, what was the first (new or used) vehicle you owned?**

I first learned to drive in an old, baby blue Ford Thunderbird. I remember the car specifically for its sleek, white drag top. The first car I owned was a used, 1982 white Camaro. I took this car in on a trade while working at Cherry Hill Subaru, and I paid \$3200 for it. The first "new" car I purchased was a 1987 Subaru XT Turbo Coupe. I bought that car for \$7700. I have all of these cars to thank, as well as my job in law school selling cars, for the love of automobiles that I still have to this day.

**Assemblyman Greenwald's Bio:**

*Assemblyman Lou Greenwald has represented New Jersey's 6th Legislative District (Berlin Township, Cherry Hill, Collingswood, Gibbsboro, Haddon, Haddon field, Hi-Nella, Maple Shade, Merchantville, Oaklyn, Pennsauken, Somerdale, Stratford, Tavistock, and Voorhees) since 1996. He currently serves as the Assembly Majority Leader, a position he has held since 2012. Assemblyman Greenwald attended Christ the King Parochial School in Haddonfield and graduated from Cherry Hill High*

**To me, the biggest takeaway from this past year is that you cannot ignore a problem until it reaches a crisis point.**

**— Assemblyman Lou Greenwald**

*School East. Continuing his education, he graduated from Moravian College in 1989 with a bachelor's degree in political science. He went on to earn a law degree from Seton Hall University School of Law. He is an attorney and currently CEO of Transformative Solutions, LLC in Voorhees, New Jersey.*

*He was honored by the American Diabetes Foundation, the Epilepsy Foundation, Southern New Jersey Jaycees, and the Cherry Hill Sons of Italy as their Person of the Year. He received the first-ever Governmental Leadership Award from the Advocates for New Jersey History. **njcar***

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# Eligible EVs Can Receive Cash-On-The-Hood Incentives Up to \$5,000

## The Charge Up New Jersey

program was relaunched on July 6, 2021 as a point-of-sale incentive to help New Jersey residents make the switch to a plug-in electric vehicle (EV). Consumers can receive up to \$5,000 as a cash-on-the-hood incentive toward the purchase or lease of an eligible new EV at dealerships across the State. Incentives are available on a first-come, first-served basis until funding is expended for Fiscal Year 2021.

Vehicles purchased or ordered before the relaunch of the program on July 6, 2021 **will not qualify for an incentive.**

To keep the Charge Up New Jersey funding available for as long as possible, and to reach customers who otherwise would not consider purchasing an EV, the New Jersey Board of Public Utilities established a two-tier incentive based on an EV's final manufacturer's suggested retail price (MSRP):

- **EVs with an MSRP up to \$45,000** are eligible for \$25 per mile of all-electric EPA driving range, up to a **maximum incentive of \$5,000**. Eligible EV models with 200+ miles of all-electric range receive the maximum amount.
- **EVs with an MSRP between \$45,000 and \$55,000** are eligible for \$25 per mile of all-electric EPA driving range, up to a **maximum incentive of \$2,000**. Incentives are limited to vehicles with a final MSRP less than \$55,000

## Who is eligible?

- Any resident who purchases or leases an eligible new EV in the State of New Jersey and registers it in the state is eligible for a Charge Up New Jersey incentive.
- The incentives are for individuals **ONLY**, not businesses or public entities.
- The only exception for residency is active-duty military members who are stationed in New Jersey with permanent residency elsewhere.
- Eligible residents must purchase

an eligible EV from a CSE-verified dealership, listed on the Charge Up New Jersey official website under "Eligible Dealers".

## What vehicles are eligible?

- A wide variety of battery-electric and plug-in hybrid electric vehicles are eligible. A complete list can be found at [chargeup.njcleanenergy.com/eligible-vehicles](https://chargeup.njcleanenergy.com/eligible-vehicles).

## Application documentation

- For the point-of-sale incentive, consumers only need to provide a valid New Jersey driver's license. **The dealership will submit all required paperwork.**
- Dealerships will need to submit:
  - Copy of the Charge Up New Jersey Terms & Conditions, **signed by the consumer**. Physical or electronic signatures are accepted.
  - Copy of the consumer's valid New Jersey driver's license
  - Copy of the Purchase/Lease Agreement
  - Copy of the Vehicle Registration (or eTemp)

## MSRP

Participating dealerships must familiarize themselves with the proper MSRP calculation to determine the customer's eligible incentive amount for their chosen vehicle. Because customer choices on possible add-ons may affect the calculation (*and ultimate incentive*), it is important to identify the options/add-ons up-front in order to accurately calculate the incentive. The dealership salesperson may want to work with the customer to build the vehicle they want, then use the chart on page 18 to determine the final MSRP and incentive amount. This chart includes examples of add-ons that affect the vehicle's value and **ARE** included in the MSRP calculation that determines the incentive amount as well as add-ons that are **NOT** included in the calculation.

**EVs** continued on page 18

## A Look Back At Year One of the Charge Up New Jersey EV Incentive Program

The New Jersey Board of Public Utilities (NJBP) recently released preliminary information about Year One. According to NJBP's data, the Year One incentive funding by county was distributed as follows: Bergen (14.5%), Middlesex (12.3%), Monmouth (9.6%), Morris (7.3%), Essex (7.1%), Ocean (7%), Hudson (6.4%), Somerset (6.4%), Mercer (5.6%), Burlington (5%), Union (4.4%), Camden (4.2%), Passaic (2.5%), Gloucester (2%), Atlantic (1.4%), Hunterdon (1.4%), Sussex (1.1%), Cape May (.7%), Warren (.5%), Cumberland (.3%) and Salem (.2%).

Additionally, of the 6,914 applications approved in Year One of the Program, 5,735 (83%) represented just one manufacturer: Tesla. All other manufacturers accounted for the other 17% of Year One incentive funds.

New Jersey dealerships want to sell what consumers want to buy. The success of future incentives to convert consumers into EV drivers is critical to achieving New Jersey's goal of 330,000 light-duty, plug-in electric vehicles on the road by December 31, 2025.





EVs continued from page 17

### MSRP in Year 2 of the Charge Up New Jersey Program

The base model MSRP predetermines the incentive amount, however the effective MSRP, after installed packages and add-ons, may make a vehicle either eligible for a lower incentive amount or ineligible if the caps are exceeded.

In the MSRP Calculation	Not in the MSRP Calculation
<ul style="list-style-type: none"> <li>• Add-ons made at point-of-sale</li> <li>• Items relate to the value of the vehicle</li> <li>• Battery upgrades</li> <li>• Autonomous upgrades</li> <li>• Wheel and tire packages</li> <li>• Interior or exterior color options</li> <li>• Entertainment systems</li> <li>• Interior or exterior upgrades that are not part of the trim level (e.g. heated seats, heated steering wheel, dimming mirror, etc)</li> </ul>	<ul style="list-style-type: none"> <li>• Add-ons made after point of sale</li> <li>• Items do not relate to value of the vehicle</li> <li>• Floor mats</li> <li>• Cargo nets</li> <li>• Destination charges</li> <li>• Delivery charges</li> <li>• Tax</li> <li>• Registration fees</li> <li>• Title fees</li> <li>• Documentation fees</li> <li>• Maintenance packages</li> <li>• Vehicle care packages</li> <li>• First Aid kits</li> </ul>

EXAMPLES of how the MSRP determines eligibility and determines the final incentive amount:

VEHICLE #1	Maximum Incentive Based on Base Model MSRP	Incentive Amount With VALUE Add-Ons At Point of Sale
2021 Hyundai Kona Electric with MSRP of \$45k	Eligible for \$5k	Eligible for \$2k
VEHICLE #2	Maximum Incentive Based on Base Model MSRP	Incentive Amount With VALUE Add-Ons At Point of Sale
Eligible vehicle with an MSRP of \$50k	Eligible for \$2k	Price above \$55k INELIGIBLE
VEHICLE #3	Maximum Incentive Based on Base Model MSRP	Incentive Amount With NON-VALUE Add-Ons At Point of Sale
2021 Hyundai Kona Electric With MSRP below \$45k 258 miles-range	Eligible for \$5K	Eligible for \$5k
VEHICLE #4	Maximum Incentive Based on Base Model MSRP	Incentive Amount With NON-VALUE Add-Ons At Point of Sale
2021 BMW i3 With MSRP above \$45k 153 mile-range	Eligible for \$2k	Eligible for \$2k

### 14-DAY SUBMISSION WINDOW

Under the Program, dealerships have 14 days, from the date of sale or lease, to submit the reimbursement application. The 14 days are calendar days and include Saturdays, Sundays, and holidays when determining the application deadline.

The Charge Up New Jersey Program is a first-come, first-served program. Therefore, it is in the dealership's best interest to submit the application on the transaction day or as close to it as possible to minimize any chance of the 14-day window closing or funding being expended before the application is submitted. Applications submitted after the 14-day window will be denied. **Dealerships are encouraged to submit their applications as quickly as possible.**

Visit the Charge Up New Jersey webpage ([chargeup.njcleanenergy.com](http://chargeup.njcleanenergy.com)) for a complete list of program details, including how to become an eligible dealer to participate in the program, how much funding is in the program, and other useful tools. **njcar**

## New Jersey Continues Its Push Toward Plug-In Vehicles

New Jersey's long-standing effort to improve air quality, reduce greenhouse gas emissions, and reduce operating costs for consumers culminated in the passage of the Electric Vehicle (EV) Act on January 17, 2020. The law sets aggressive goals to reach by December 31, 2025 including:

- 330,000 light-duty, plug-in electric vehicles are to be registered in New Jersey, and
- at least 1,000 Level Two electric chargers available for public use across the state.

The EV Act was the natural culmination of more than a decade of legislation, beginning with New Jersey's commitment to implement the California Low Emission Vehicle (Cal LEV) Program in 2003 and the passage of the Global Warming Response Act in 2007. These laws, coupled with the State's Energy Master Plan, sent New Jersey on the road toward the use of low- and zero-emission vehicles, including plug-in EVs. The EV Act aims to achieve its aggressive goals by providing incentives for the purchase or lease of EVs and related charging equipment. The Charge Up New Jersey Program (discussed in several stories or columns in this issue) is the result of that requirement.

New Jersey has implemented various incentive programs to spur the transition from internal combustion engine (ICE) to zero emission vehicles (ZEV). Along with the Charge Up New Jersey Program, the State also offers the following additional incentives:

- ZEV Sales Tax Exemption
- It Pay\$ to Plug In EV Charging Grants Program
- Diesel Vehicle and Equipment Electrification Grants
- eMobility: Grants for Electric Car-sharing and Ride-hailing Services
- Clean Fleet EV Incentive Program: Funding for State and Local Governments
- EZ Pass Green Pass Discount on Tolls
- HOV Lane Access for ZEV
- No Luxury and Fuel-Inefficient Vehicle Surcharge for ZEV (LFIS)

The federal government has also issued incentives for the use of ZEV or plug-in electric vehicles. Incentives include the Plug-in Electric Drive Vehicle Credit of up to \$7,500, the Alternative Fuel Vehicle Refueling Property Credit, and the Alternative Motor Vehicle Credit.

# Employee Protections and Employer Requirements: Updating the Workplace after New Jersey's Legalization of Marijuana

BY JENNIFER ROSELLE, ESQ.



**On Feb. 22, 2021, New Jersey** joined over a dozen other states in legalizing the adult use of cannabis. This change came 10 years after New Jersey legalized marijuana use for medicinal purposes. The new law, entitled *New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act*, permits the use and possession of regulated cannabis for adults 21 years and older and establishes parameters for cannabis-related businesses. Now that the initial excitement over this change has settled, motor vehicle dealerships wonder how the law will impact their workplaces, policies, and employees.

## Marijuana: Federal and State Law

Many states have legalized cannabis use for either recreational or medicinal purposes; however, the federal government still criminalizes its use and possession. Marijuana remains a Schedule 1 drug under the Federal Controlled Substance Act. Legislation to legalize marijuana, recently introduced on the federal level, may signal a changing attitude toward cannabis' placement on the Controlled Substance Act. Even so, since taking office, the Biden administration has

not taken affirmative steps to change cannabis' status, and the administration terminated five staffers for their prior marijuana use. It was also reported that dozens of staffers were suspended for similar behavior, even if they came from states where marijuana use is legal.

Given the current differences from federal law, it is critical for dealerships to understand what is expected of them as New Jersey employers. Although the Cannabis Regulatory Commission regulations are not due until late summer, some employment protections in the law are already effective, ranging from the hiring process to workplace policies. In addition, recent case law expands an individuals' rights to use (or not use) cannabis in certain circumstances.

## Medical vs. Recreational Marijuana

Under the *New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act*, adults 21 and over will be able to use cannabis for their own enjoyment. Dealerships are prohibited from taking adverse employment actions against employees simply because they elect to use (or not use) cannabis.

Likewise, dealerships are prohibited from relying solely on an employees' positive drug test result for cannabis metabolites when taking an adverse action, such as discipline or termination.

The advent of an adult-use marketplace is not the only reason individuals may use cannabis products. Dealerships must recognize that employees may also be prescribed cannabis for medical reasons. Importantly, an employee enrolled in the medical marijuana program is presumed to have a disability for the purposes of the New Jersey Law Against Discrimination (NJLAD) and/or the Americans with Disabilities Act (ADA). This means that, in addition to having additional procedural protections (*i.e.*, *time to produce a prescription following a drug test*), dealerships must be prepared to engage in the so-called interactive process with employees who hold a medical marijuana card.

This does not mean that dealerships must allow the employee to use medical marijuana during the workday or on dealership property. It may, however, mean that dealerships

**MARIJUANA** continued on page 22

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**MARIJUANA** *continued from page 19*

must engage in a dialogue with the employee that is part of the medical marijuana program. This dialogue is designed to explore reasonable accommodations that allow employees to perform the essential duties of their job. Typically this includes tolerating off-duty use. Assessments are made on a case-by-case basis, and reasonableness depends on circumstance. At a minimum, dealerships should be aware current case law makes it clear that summarily terminating medical marijuana users, without first engaging in this process, is likely to lead to liability.

### Workers' Compensation and Medical Marijuana

The New Jersey Supreme Court recently considered the use of medical marijuana as a treatment through an employer's workers' compensation plan. The case, *Hager v. M&K Construction*, stands for the proposition that employers may be required to reimburse employees the cost of medical marijuana following an employee's worksite injury.

In the Hager case, the plaintiff became disabled following a workplace accident. He spent years undergoing treatment and submitted to multiple surgeries to address spinal injuries. Given the persistent back pain, his treatment also included use of prescription opioids for pain management. Eventually, and due in part to the side effects of the opioid use, the plaintiff's physician prescribed medical marijuana.

Eventually, a workers' compensation trial convened to determine the nature of his work-related injuries and entitlement to benefits. During the trial, significant testimony was presented relating to the plaintiff's surgeries, opioid reliance, and subsequent medical marijuana prescription. The plaintiff testified that the change in medication allowed him to wean himself from the opioids. The use of medical marijuana also allowed him to manage his pain and muscle spasms. The court, recognizing the plaintiff had limited treatment opinions, concluded that marijuana was the clearly indicated option. As a result, it ordered the employer to reimburse,

among other things, the cost of the medical marijuana.

On appeal, the Appellate Division found in the plaintiff's favor but also determined employers can comply with New Jersey's medical marijuana laws without also violating federal law. This is because nothing in the medical marijuana laws required the employer to engage in the unlawful conduct of possessing, manufacturing or distributing medical marijuana. It likewise decided that the employer was not entitled to be treated as a private health insurer (*and therefore exempt from reimbursing the cost of treatment*).

On April 13, 2021, the New Jersey Supreme Court upheld the lower courts' findings. The Court rejected arguments that workers' compensation insurers should be treated like private health care providers or governmental medical assistance. The Court determined that workers' compensation is not a private health care plan. Had the legislature intended to create an exception, it could have, considering the exceptions written into the medical marijuana statutes.

The Court was similarly unpersuaded by arguments that reimbursement for medical marijuana violated the Federal Controlled Substance Act. The Court highlighted that the State's medical marijuana laws operated within the parameters of federal law. Pointing to federal policies prohibiting interference with state medical marijuana programs, the Court determined Congress intended for state programs to survive and flourish. Read together, with the Controlled Substance Act's prohibitions, the Court determined it possible to comply with State and Federal law at the same time and rejected the conspiracy or aiding and abetting theories argued by the defendant.

Recognizing that the use of medical marijuana is uncommon for workers' compensation purposes, the Court also examined the Legislature's intent in its statutory schemes before ordering reimbursement for treatment.

The Workers' Compensation Act may, in some instances, cover palliative care. The New Jersey medical marijuana laws included chronic pain as a qualifying condition for program

eligibility. According to the Court, the legislature's intent in these statutory schemes would be undermined by simply exempting workers' compensation carriers from providing medical marijuana as a reasonable and necessary treatment. In reaching this conclusion, the Court reiterated the principle that reasonableness and necessity require competent medical testimony about the treatment's symptom reduction or its ability to restore function.

In this case, the plaintiff had two options. One required the continued use of opioids, which caused the plaintiff to suffer side effects. The other option – medical marijuana – allowed him to conquer an opioid addiction despite his significant injuries and chronic pain. The credible medical testimony presented during the trial detailed the plaintiff's need for the medication and benefits to an alternative treatment. This allowed the Court to conclude the treatment was reasonable and necessary.

The Court's April 13, 2021 ruling highlights the continuing evolution of cannabis law and its impact on the workplace. In this decision, the Court established an expectation that medical marijuana may, depending on circumstance, be reasonable and necessary for treatment under workers' compensation. In doing so, the Court highlighted the State's ongoing commitment to medical marijuana as a treatment for those meeting the program's requirements.

Viewed in concert with the New Jersey constitutional amendment governing adult recreational use of cannabis, dealerships should expect more individuals to explore marijuana use for medicinal and recreational purposes. At this juncture, it is recommended that dealerships review their policies regarding reasonable accommodations for individuals with disabilities and their workplace drug and alcohol policies to ensure compliance with this rapidly evolving industry. **njcar**

*Jennifer Roselle, Esq. is counsel in the Genova Burns Cannabis, Labor, Human Resources Counseling and Compliance Practice Group. She can be reached at [jroselle@genovaburns.com](mailto:jroselle@genovaburns.com).*





# Are YOU In The NJ CARPOOL Outreach Network?



The franchise system that nearly 36,000 men and women rely upon for their livelihoods faces threats from a variety of directions. Whether it's industry disruptors looking to eliminate the franchise system, or regulations/legislation that would negatively impact the day-to-day operations of New Jersey's 500+ neighborhood new car and truck dealerships, NJ CAR works to protect the interests of the industry and those 36,000 men and women who are its backbone.

We must be ready for the next threat to our industry. NJ CAR needs the help of those who work in the industry to support efforts to improve it or defend it from efforts to do it harm.

Join the NJ CARPOOL Outreach Network and help amplify the voice of the industry in Trenton. It's simple and only takes a few seconds. You will stay informed about issues important to the industry and be ready to help when called.

Details on how to register for the NJ CARPOOL network are included in the images accompanying this article.

If you have any questions, please contact Magdalena Padilla, NJ CAR Director of Government Affairs, at [mpadilla@njcar.org](mailto:mpadilla@njcar.org), or Anne Smith, NJ CAR Dealer Liaison, at [asmith@njcar.org](mailto:asmith@njcar.org). **njcar**

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Direct Sales



# New Jersey's Franchised Dealerships Do A Lot of Good In Their Communities

BY MAGDALENA PADILLA



**To our members, being in business is not just** about sales. Our members employ nearly 36,000 men and women in good-paying, local jobs that can't be outsourced and support another 33,600 jobs in New Jersey. Last year, the \$34.6 billion in industry sales generated \$1.73 billion in state and local tax revenue. Even during a worldwide pandemic, the automotive retail industry continued to be a primary driver of the state's economy. This is great news, but dealers do a lot more than just sell new cars and trucks.

New Jersey's neighborhood new car and truck dealerships are relentlessly committed to New Jersey. Beyond their considerable investment in staff, brick-and-mortar facilities, and internal operations, they also support the neighborhoods in which they do business in a variety of ways.

The generosity of New Jersey's franchised dealers, highlighted by as much as \$15 million in charitable contributions last year, serves as an incredible indicator of the industry's longstanding commitment to their local neighborhoods and customers.

Below, you'll find examples of just some of the organization's dealers have supported over the past 18 months:

## Bergen County

- *Adopt a Soldier Platoon, Inc.* (Liberty Subaru and Subaru of America)
- *Hackensack University Hospital Foundation* (Quality Automall)
- *Little Sister of the Poor* (Quality Automall)
- *NY-NJ Trail Conference* (Liberty Subaru and Subaru of America)
- *Oasis* (Quality Automall)
- *Paterson Boys & Girls Club* (Quality Automall)

## Cape May County

- *Avalon, New Jersey's Annual Dune Grass Planting Project* (Subaru's Eastern Region and Burke Subaru)
- *Big Brothers & Big Sisters of Atlantic & Cape May Counties* (Burke Motor Group)
- *Cape Hope and the Cape May County Chamber of Commerce Education Foundation* (Burke Motor Group)

- *Cape May County Chamber Education Foundation* (Kindle Auto Plaza)
- *Habitat for Humanity, Cape May County* (Burke Subaru)
- *Heroes on the Water, South Jersey* (Burke Motor Group)
- *Volunteers in Medicine, South Jersey* (Burke Subaru)

### Essex County

- *The Nutley & Suburban Essex Chambers of Commerce and Nutley Scouts* (Nutley Kia)
- *Pediatric Nutrition Center- Haiti* (St. Cassian Church- Montclair) (Nutley Kia)
- *The Phoenix Center* (Nutley Kia)

### Gloucester County

- *Local Kiwanis Club of Greater Swedesboro* (Spirit Chrysler Jeep Dodge)

### Mercer County

- *Boys and Girls Club of Trenton* (Scott Harvey Subaru)
- *David's Dream & Believe Cancer Foundation* (Scott Harvey Subaru)
- *Ewing Township Police Benevolent Association* (Scott Harvey Subaru)

### Middlesex County

- *American Cancer Society* (Dayton Toyota)
- *South Brunswick Township Night Out* (Dayton Toyota)
- *South Brunswick Commission on Women* (Dayton Toyota)

### Monmouth County

- *ARC of Monmouth County* (M. Schwartz & Sons)
- *Camp Quality New Jersey* (Chevrolet of Freehold)
- *Christian Brothers Academy* (M. Schwartz & Sons)
- *Freehold Open Door Food Pantry* (Volkswagen of Freehold)
- *Freehold YMCA Gifts for Children* (Volkswagen of Freehold)
- *Police & Schools L.E.A.D. Program* (M. Schwartz & Sons)
- *Turning Lives Around* (Lester Glenn Ford Auto)
- *YMCA* (M. Schwartz & Sons)

### Morris County

- *Toys for Tots* (Paul Miller Audi and Paul Miller Porsche)

### Ocean County

- *CauseWheels Vehicle Donation Program* (Causeway Family of Dealerships)
- *Friends of Island Beach State Park* (Lester Glenn Chevrolet of Toms River)
- *NJ Chapter of the Crohn's & Colitis Foundation* (Lester Glenn Buick GMC)
- *Ocean of Love for Children* (Lester Glenn Hyundai)
- *Robert Gallagher Charitable Foundation* (Lester Glenn Mazda)
- *USO Liberty Chapter at Joint Base McGuire* (Lester Glenn Chrysler Dodge Keep RAM)

### Somerset County

- *New Brunswick Police Department, New Brunswick North Branch and Green Knoll Fire Departments* (BMW of Bridgewater)

**Additionally, New Jersey's neighborhood new car and truck dealerships have worked to accommodate the evolving needs of their customers throughout the pandemic with online transactions, no-contact pickup and delivery of vehicles and more. Some of these changes to operations will outlive the pandemic.**

### Sussex County

- *Pope John XXIII High School, Sussex County (to defray COVID-related sanitation costs)* (Nielsen Ford)
- *PPE Masks Donations* (Nielsen Ford)

### Warren County

- *Abilities of NW New Jersey* (Smith Motor Co.)
- *ARC of Warren County* (Smith Motor Co.)
- *Local Fire Companies* (Smith Motor Co.)

Additionally, New Jersey's neighborhood new car and truck dealerships have worked to accommodate the evolving needs of their customers throughout the pandemic with online transactions, no-contact pickup and delivery of vehicles and more. Some of these changes to operations will outlive the pandemic.

The leadership efforts of New Jersey's neighborhood new car and truck dealerships have garnered favorable national attention during the past year. Rick DeSilva, Jr., Dealer Principal of Liberty Subaru and Liberty Hyundai, was named the 2021 TIME Dealer of the Year. This award was presented in part because of the organization's charitable efforts, including hosting annual pet adoption events and supporting Adopt-a-Soldier Platoon, Special Olympics New Jersey Torch Run, Jersey Cares Coat Drive, the Valerie Fund, Ramapo College Foundation, New York-New Jersey Trail Conference, Bergen Highlands Ramsey Rotary Gift of Life, and other organizations.

This review highlights only a few of New Jersey's neighborhood new car and truck dealerships' charitable efforts. While capturing this moment in time, it reflects the generous nature of the dealerships and their commitment to their communities.

**nj car**



# Safety Is A Business Imperative

BY CHARLES RUSSO

**Dealerships typically pay 2-4%** of payroll for Workers' Compensation insurance. It is not uncommon that Workers' Compensation is the dealership's largest insurance expense and has a significant impact on profitability. Dealerships can minimize this cost by instilling a safety culture in their workforce.

NJ CAR has developed the Zero Injury Protection (ZIP) Program exclusively for NJ CAR members. And the evidence is in – safety cultures avoid workplace

injuries. Moreover, adopting ZIP can reduce the total cost of employee injuries by up to 44%.

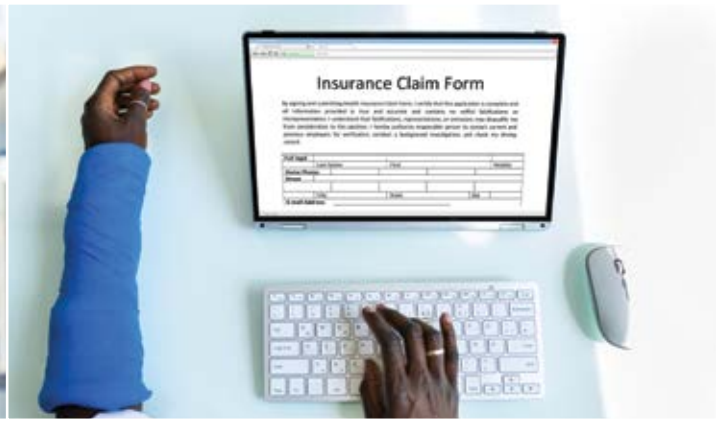
ZIP is a comprehensive approach focused on reducing and eliminating work-related injuries and is offered as part of a dealership's participation in the NJ CAR Workers' Compensation Program at no cost to the dealership.

ZIP is about increasing dealership profits by lowering costs and improving revenue. Think of the lost revenue and

increased expense when a tech is out of work recovering from a workplace injury. Reducing a dealership's employee injuries will lead to a lower experience mod, higher scheduled credit and dividend.

An additional benefit of ZIP is employee morale. Morale improves when employees know that the dealership is promoting their safety. Several dealerships that implemented ZIP have commented on this outcome.





**Look at the incredible results NJ CAR members are achieving by utilizing the ZIP Program:**

Dealer location #1	202 days accident free
Dealer location #2	258 days accident free
Dealer location #3	392 days accident free
Dealer location #4	505 days accident free
Dealer location #5	905 days accident free
Dealer location #6	932 days accident free

ZIP has produced REAL results for participating dealers:

- 80% of participating dealerships had loss ratios under 20%
- 70% had loss ratios under 10%
- Medical and indemnity claim costs for participating dealerships were three times less than dealerships with no formal safety program in place.

Safety is a journey. Repeated reinforcement is needed for employees to embrace a safety culture. The requirements to achieve a zero-injury culture include:

- Forming a high-impact safety committee;
- Conducting a safety inspection that includes solutions, remediation and abatement planning;
- Investigating employee injuries to determine the root cause;
- Reporting claims promptly; and
- Providing and promoting periodic recognition events.

**ZIP Program Testimonials**

“The commitment to safety has changed the very culture of safety awareness at all our locations. At the end of the day, the

NJ CAR ZIP program has helped us improve our dealership financial results.” - Eric Nielsen

“The ZIP program is an excellent, structured way to limit workers’ compensation exposure. Getting ALL employees involved in raising awareness of workplace safety has led to a lower frequency of claims.” - Jeff Wall

“The NJ CAR Zero Injury Program provides our management team with an effective, easy to use, injury prevention plan throughout the year. Also, by utilizing loss control methods that help make employees conscious of safety during the busy workday, we are reducing the rate of injury.” - David Defilippo **njcar**

*Charles Russo is NJ CAR’s Risk Manager & Safety Specialist and has more than 20 years of risk management, safety, claims and compliance experience. He can be contacted at [crusso@njcar.org](mailto:crusso@njcar.org) or 609.883.5056, x314.*



# Motor Vehicle Right To Repair Is Not A One-State Solution

BY MAGDALENA PADILLA

## To some degree, the nationwide

Motor Vehicle Right to Repair discussions had been quieted years ago by the historic January 15, 2014, Memorandum of Understanding (MOU) between representatives of automotive manufacturers and representatives of independent repair shops – the first agreement of its kind. The MOU provided a uniform remedy for the sale of automotive manufacturers' diagnostic and repair information to independent repair shops. And it finalized an agreement that applied nationwide.

The Federal Trade Commission (FTC) recently issued a report providing its analysis on the status of repair restrictions throughout various industries. Its May 2021 report *"Nixing the Fix: An FTC Report to Congress on Repair Restrictions"* (Report) responds to Congress' 2020 directive for a report on anticompetitive practices related to repair markets nationwide. The FTC report covers a variety of industries, including automotive. The FTC analyzes responses to consumer protection efforts, repair restrictions on products and consumers' preference for choices when repairing their products.

With respect to the automotive industry, it is complimentary. It favorably acknowledges the automotive manufacturing companies' lead in developing the MOU. It states: *"no industry sector, other than the automotive industry, has worked to open repair markets through a self-regulatory framework."*

However, by issuing the Report, the FTC may have taken the subtle opportunity to reopen the discussion. It invites a reconsideration of the MOU, noting that *"any self-regulating agreement would also need to be flexible enough to change or grow as the industry and products covered by that agreement change."* The FTC calls the MOU a *"sufficiently comprehensive agreement."* However, the FTC also notes that the MOU does not extend to the sale of telematics (*vehicle computer systems that collect real-time information concerning a vehicle's performance and maintenance*). In so doing, it invites a reconsideration of the 2014 MOU.

Two months after the FTC's report, on July 9, 2021, President Biden issued an "Executive Order on Promoting Competition in the American Economy" that directs agencies to further policies

that seek to address practices that inhibit competition, including restrictions on third-party repair or self-repair of items. The same day, the Motor and Equipment Manufacturers Association (MEMA) and the Automotive Aftermarket Suppliers Association (AASA) issued a press release applauding the President's Executive Order. The FTC hosted a Commission meeting on July 21 to discuss the implications of the Executive Order.

The impetus for the development of the 2014 MOU began in Massachusetts. Its 2013 Legislature and electorate were, to varying degrees, proposing mandatory access requirements to sell diagnostic and repair data to independent repair shops. When the automotive manufacturers crafted the MOU as a self-regulating mechanism instead, the effort helped address the existing concern. The MOU was an agreement among the Alliance of Automotive Manufacturers, the Association of Global Automakers, and independent garages and retailers. It made Massachusetts' law a national standard. It extended nationwide the provisions for all light vehicles in the Massachusetts law and impacted all companies and organizations that were



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part of the signatory associations. It provided a solution whose national application was an easier and fairer remedy, compared to every state implementing its own solution.

The FTC's raising of telematics was likely spawned by recent activities, again, in Massachusetts. On Nov. 3, 2020, Massachusetts passed a ballot initiative known as Question 1, expanding its 2013 law to include access to telematics commencing with 2022 automotive models. Under the new law, automotive manufacturers must provide a standardized open-access data platform, accessible to vehicle owners or third parties such as repair shops, starting with the 2022 model year. The new Massachusetts law provided a private right of action by owners, and authorized independent repair shops denied access to the data. Penalties for each denial of entry are the greater of treble damages or \$10,000.

The current interest in access to telematics raises more complex issues than did the original law. Unlike the original 2013 law, which resulted in the MOU, this current law raises practical

automotive competition issues for Massachusetts because it applies to 2022 vehicles, but the law was passed only in 2020. It raises compliance and sizable intellectual property issues for automotive manufacturers. It elevates privacy issues and safety and cybersecurity concerns for the public and the federal government. In written testimony presented to the Massachusetts House and Senate Joint Committee on Consumer Protection and Professional Licensure during its consideration of the ballot measure, Deputy Administrator of the National Highway Transportation Safety Administration (NHTSA) James Owen cautioned: *"Steps proposed to ease access for serviceability cannot be allowed to compromise vehicle cybersecurity and public safety."*

After the ballot's passage, a federal lawsuit challenging the new law was filed in the U.S. District Court for the District of Massachusetts on November 20, 2020, by the Alliance for Automotive Innovation, a group of automotive manufacturers that represents General Motors, Ford, Toyota, Volkswagen and other

automakers. They challenge the law's constitutionality and allege that making telematic data readily available could put drivers at risk by making hacking a vehicle easier and potentially encouraging hackers to orchestrate motor vehicle accidents.

With confusion over the effective date of the legislation, on November 30, the Massachusetts Attorney General's Office agreed not to enforce the new law. Supporters and opponents of the legislation anticipate the law will be challenged in the court.

For this 2020-2021 legislative session, the New Jersey Legislature has not introduced legislation concerning telematics. Nor should it. Issues concerning access to automotive manufacturers' data require a national response. A 50-state remedy does not assist consumers or manufacturers.

**njcar**

Magdalena Padilla is NJ CAR's Director of Government Affairs. She can be reached at [mpadilla@njcar.org](mailto:mpadilla@njcar.org) or 609.883.5056, x345.





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# NJ CAR Recognizes the Dealerships That Have Contributed to CAR-PAC

**NJ CAR appreciates the support of the 292 dealers** who contributed to CAR-PAC, the Coalition's political action committee, between January 1, 2021, and June 30, 2021. CAR-PAC needs the contributions of ALL dealers to ensure it has the necessary financial resources to support candidates (*on both sides of the aisle*) who support the franchised retail automotive industry in New Jersey and ensure the dealers' voice is heard in Trenton on a wide variety of important public policy issues.

**Support of CAR-PAC will be especially critical this year, with the Governor and entire Legislature up for re-election in November.** CAR-PAC has been (*and will continue to be*) very active in supporting the candidates who support our industry.

The New Jersey Election Law Enforcement Commission (ELEC) rules allow contributions to a political action

committee of up to **\$7,200 per business or jointly-controlled business**. And, don't forget, contributions can be made with corporate funds.

If you have any questions regarding how much your dealership or dealership group can still contribute this election cycle, please contact Jim Appleton at 609.883.5056, Ext. 330, or by email at [jappleton@njcar.org](mailto:jappleton@njcar.org).

NJ CAR encourages those dealers who have not yet contributed to support CAR-PAC's efforts on behalf of ALL New Jersey franchised automotive retailers.

**The following dealerships contributed to CAR-PAC between January 1, 2021, and June 30, 2021:**

Ace Ford	Bridgewater Kia	DCH Brunswick Toyota
Action Hyundai of Millville	Brogan Cadillac Company	DCH Freehold Toyota
Acura of Denville	Buhler Chrysler Jeep Dodge	DCH Kay Honda
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The 2021 NADA PAC leadership team for New Jersey consists of NADA Director Rick DeSilva, NJ CAR Chairwoman Judith Schumacher-Tilton, NADA PAC State Chairman Robert Larson and NJ CAR President Jim Appleton.

The following individuals from New Jersey have contributed this year to NADA PAC from January 1, 2021 through June 30, 2021:

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