

**June 2009**

## 2009 Legislative Wrap Up

MADA’s policy agenda fared well in 2009. MADA was able to update the state franchise law to secure some much-needed dealer protections during the current crisis in the auto industry. MADA was also able to fend off some threatening attacks from overzealous environmentalists determined to put California in charge of vehicle emissions standards, and others who attacked the industry with proposals that would have cost our struggling industry millions of dollars.



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Although MADA’s agenda was successful, the big-picture assessment of the 2009 Legislative Session leaves much to be desired. This year’s Legislature managed to introduce over 2,400 bills. By the end of April, with only 3 weeks of the legislative session left, they had passed only 32 bills. And by the end of the session on May 18th, they managed to get 179 of them to the Governor’s desk, but drew 22 vetoes in the process. Combine that record with an inability to find a compromise with the Governor on a solution to the state’s \$4.6 billion budget deficit, and you have a lackluster finish from this year’s State Legislature.

## **BILLS THAT PASSED**

### **Motor Vehicle Franchise Law Improvements**

CH. 34  
 Effective Date: May 7, 2009  
 House Author: Rep. Joe Atkins (DFL – Inver Grove Heights)  
 Senate Author: Sen. Kevin Dahle (DFL – Northfield)  
*MADA Position: MADA led the effort to pass this legislation*

With so much of the fate of dealership success resting in the hands of manufacturers, Minnesota dealers rely on a strong state franchise law to help create fairness in these agreements. This year, beefed-up protections in the state franchise law couldn’t have come at a better time.

First, the bill will require successor manufacturers to offer existing dealers a franchise agreement on similar terms as a predecessor manufacturer. If one manufacturer sells a line-make to another manufacturer, the dealers who have invested in facilities, personnel and equipment necessary to sell and service the line-make must be offered the franchise with the new owner if the new owner continues to sell the line-make in this state.

This provision also closes a loophole in our law. If a manufacturer sold a line-make to another manufacturer, and the manufacturer who bought the line-make decided to terminate a dealer, the new law will protect the dealer in that situation, ensuring access to termination assistance that he/she would have been owed by the original manufacturer.

Second, the new law adds protections for dealers facing termination by a manufacturer. The provision will require the manufacturer to compensate the terminated dealer for the value of the franchise over and above the value of the physical assets owned by the entity. This requirement would only come into play if the manufacturer terminates the relationship because the manufacturer is discontinuing a line-make.

There is a caveat for recreational vehicle dealers, however. The provision that entitles dealers to compensation for the blue-sky value of the franchise at termination does not apply to franchise agreements between recreational vehicle dealers and manufacturers due to a last-minute objection by the Recreational Vehicle Industry of America, which threatened the viability of the entire bill on the legislative timetable. MADA plans to convene a work group of RV dealers and manufacturers to study this issue before the start of the 2010 Legislative Session.

Finally, the bill corrects an inconsistency in current law. Existing law offers some level of protection for a dealer who has existing space in their facility to bring in another line-make. The current law says that a manufacturer can't *terminate the dealer's franchise agreement* for adding another line make. However, manufacturers have forced the issue with other remedies short of termination, such as injunctive relief and site control agreements to circumvent the statute.

The new law provides that manufacturers cannot prohibit a dealer from adding another line-make as long as the dealer maintains a reasonable line of credit for each line-make, and that the dealer remains in substantial compliance with the terms and conditions of the franchise and any reasonable facilities requirements of the manufacturer. The new law will require a manufacturer which wants to deny a dealer's request to add another line-make, to provide the grounds for denial in writing within 60 days after the manufacturer receives the completed application. A denial not issued within 60 days will be deemed to be an approval. The dealer and manufacturer can still bargain for site control, but under this language it must be voluntary, not a condition of franchise approval and have a separate consideration.

## Unreimbursed Payroll Deductions for Uniform Rental and Maintenance

CH. 69

Effective Date: August 1, 2009

House Author: Rep. Jim Davnie (DFL – Minneapolis)

Senate Author: Sen. David Tomassoni (DFL – Chisholm)

*MADA Position: MADA led the effort to pass this legislation*

The Minnesota Department of Labor and Industry raised an objection to the practice of dealers and employees splitting the cost of uniform rental and laundry services. The law on this subject indicated that employers must not deduct more than \$50 for uniform *purchases*. However, the law was unclear how that cap applied to the *ongoing expense* of uniform rental. The new law clarifies that the common dealership practice of splitting the cost of uniform rental between employer and employee may continue as long as the employee's monthly deduction for uniform expenses does not exceed \$25.

## **Motor Vehicle Sales Tax to Remain at 6.5%; General Sales Tax to Increase to 6.875%**

CH. 88

Effective Date: July 1, 2009

House Author: Rep. Ann Lenczewski (DFL – Bloomington)

Senate Author: Sen. Tom Bakk (DFL – Cook)

*MADA Position: MADA supported this legislation*

The Legislature had to clarify the difference between the general sales tax rate and the motor vehicle sales tax rate because of confusion caused by voter-approved amendments to the MN Constitution over the last few years. In 2006, voters approved a Constitutional amendment that requires all revenue collected from the motor vehicle sales tax (MVST) to be dedicated to transportation funding. In 2008, voters approved another Constitutional amendment to add 3/8ths to the state's general sales tax and dedicate the new revenue to funding for clean water, arts, parks, and various other purposes. The problem arose because the MVST rate in statute was specified as the same rate as the state general sales tax. They are two separate statutes, but tied together so that the MVST rate would be uniform with the state general sales tax. When voters approved the new Constitutionally-dedicated funding for clean water and the arts in 2008, a conflict arose between two sections of the state Constitution that specified different uses for the tax revenue on motor vehicles. With the passage of Ch. 88, the Legislature clarified that the MVST stays at 6.5% and the revenue is dedicated to transportation purposes. The Legislature also clarified that the general sales tax will be 6.875% until July 1, 2034, with .375% of the general sales tax dedicated to clean water and the arts during that time.

## Electric Vehicle Purchasing and Infrastructure Regulations

CH. 134

Effective Date: May 24, 2009

House Author: Rep. Frank Hornstein (DFL – Minneapolis)

Senate Author: Sen. Scott Dibble (DFL – Minneapolis)

*MADA Position: MADA supported this legislation*

Several years ago, the State of Minnesota set a goal of reducing its use of gasoline by on-road vehicles owned by state departments by 25% of 2005 levels by 2010 and by 50% of 2005 levels by 2015. In order to make progress toward achieving those goals, this year's Legislature added a requirement that whenever it is economically feasible, a state department purchasing new vehicles must consider vehicles powered solely by electricity. The State Legislature has also added a new law to require any electric vehicle infrastructure installed in Minnesota to allow for utilization by any make, model or type of electric vehicle.

### Primary Offense for Failure to Wear Seat Belt

CH. 165

Effective Date: June 9, 2009

House Author: Rep. Kim Norton (DFL – Rochester)

Senate Author: Sen. Steve Murphy (DFL – Red Wing)

*MADA Position: MADA supported this legislation*

After 17 years of attempts to pass this bill, failure to wear a seatbelt is now grounds for law enforcement to pull over a moving vehicle. The driver *and all passengers* will now be required to buckle-up. Prior to the passage of this bill, Minnesota law required the driver of a motor vehicle to wear a seatbelt, but law enforcement personnel were not permitted to stop a vehicle for non-compliance with the seat belt mandate.

### Child Booster Seats Required for Kids

CH. 82

Effective Date: July 1, 2009

House Author: Rep. Melissa Hortman (DFL – Brooklyn Park)

Senate Author: Sen. Jim Carlson (DFL – Eagan)

*MADA Position: MADA monitored this legislation, but had no formal position*

All children who are both under the age of 8 *and* shorter than 4 feet, 9 inches will be required to use a booster seat when traveling in a motor vehicle on any street or highway in Minnesota.

## **Reporting Requirements Adjusted for Purchasers of Global Warming Gases**

CH. 37

Effective Date: August 1, 2009

House Author: Rep. Joe Atkins (DFL – Inver Grove Heights)

Senate Author: Sen. Ann Rest (DFL – New Hope)

*MADA Position: MADA monitored this legislation, but had no formal position*

The Legislature modified the reporting requirements of persons who purchase high global-warming-potential greenhouse gases so that anyone who purchases more than 10,000 metric tons or more must report to the Minnesota Pollution Control Agency. Prior to the passage of this law, the reporting threshold was for purchases of more than 500 metric tons of carbon dioxide equivalents. “High global-warming potential greenhouse gases” are hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrous trifluoride, and any other gas the agency determines by rule to have a high global warming potential.

## **MPCA to Create Inventory of Greenhouse Gas Emissions**

CH. 37

Effective Date: Immediately

House Author: Rep. Joe Atkins (DFL – Inver Grove Heights)

Senate Author: Sen. Ann Rest (DFL – New Hope)

*MADA Position: MADA monitored this legislation, but had no formal position*

This new law will require the Minnesota Pollution Control Agency (MPCA) to establish a system for reporting and maintaining an inventory of greenhouse gas emissions in this state. Reports on greenhouse gas emissions are not yet required from the transportation sector as they are from stationary sources, but the new law requires the MPCA to consider requiring reporting of greenhouse gas emissions from transportation fuels. The law is unclear about who would be required to report under such a system.

## **Car Sharing Organizations Exempt from Registration Fee on Rental Vehicles**

CH.88

Effective Date: for registrations made or renewed on or after July 1, 2009

House Author: Rep. Jim Davnie (DFL – Minneapolis)

Senate Author: Sen. John Marty (DFL – Roseville)

*MADA Position: MADA monitored this legislation, but had no formal position*

A nonprofit organization whose group members pay for the use of the organization’s vehicles is now exempt from the special 5% rental car fee that applies in lieu of the motor vehicle registration tax. This provision will subject these organizations to the regular motor vehicle registration tax instead. Groups such as, Hour Car, which offers its members hourly vehicle rental, could take advantage of this provision.

## **Penalty for Failure to Withhold from Employee**

CH 88

Effective Date: for taxes required to be withheld after June 30, 2009

House Author: Rep. Ann Lenczewski (DFL – Bloomington)

Senate Author: Sen. Tom Bakk (DFL – Cook)

*MADA Position: MADA monitored this legislation, but had no formal position*

After June 30<sup>th</sup>, employers who are required to withhold taxes from the wages of an employee, but fail to do so as a result of treating the employee as not being an employee (i.e. treating the employee as an independent contractor), will be subject to a new penalty. Under the new law, the penalized employer must pay withholding tax equal to 3% of the wages paid to the employee. The employer may not recover tax due under this section from the employee, and the amount paid is not credited against the employee's tax liability.

## **Mini-trucks May Be Authorized by Local Governments for Local Roads**

CH. 158

Effective Date: August 1, 2009 (NOTE: expiration date specified as July 31, 2012)

House Author: Rep. Brita Sailer (DFL – Park Rapids)

Senate Author: Sen. Dan Skogen (DFL – Hewitt)

*MADA Position: MADA monitored this legislation, but had no formal position*

A county, city, or township may pass an ordinance to permit mini-truck operation on designated roadways under its jurisdiction. In order to obtain a permit, mini-trucks must be equipped with at least two headlamps; at least two tail lamps; front and rear turn-signal lamps; a windshield; a seatbelt for the driver and front passenger; a parking brake; and an exterior mirror mounted on the driver's side of the vehicle and either (a.) an exterior mirror mounted on the passenger's side of the vehicle or (b) an interior mirror.

## **Navigation Equipment May be Mounted to Windshield**

CH. 59

Effective Date: August 1, 2009

House Author: Rep. Al Juhnke (DFL – Willmar)

Senate Author: Sen. David Tomassoni (DFL -- Chisholm)

*MADA Position: MADA monitored this legislation, but had no formal position*

Global positioning systems or navigation equipment may now be mounted legally near the bottommost portion of the windshield.

## **BILLS THAT DID NOT PASS**

### **California Vehicle Emissions**

*MADA Position: MADA led the effort to defeat this legislation*

For the third consecutive Legislative Session, MADA has defeated a provision advanced by **Rep. Melissa Hortman** (DFL – Brooklyn Park) and **Sen. John Marty** (DFL – Roseville) to require the State of California to determine Minnesota's mix of motor vehicles. MADA convinced Legislators to support Federal action to impose one strong *national* standard for vehicle emissions, rather than a state-by-state approach. On May 18, two months after the Minnesota legislation died, President Obama announced that automakers would have to adjust their manufacturing to a single national vehicle emissions standard governed by the U.S. Environmental Protection Agency, thus, making the issue of adopting the California low-emissions vehicles program in Minnesota moot.

### **Repeal of the Prohibition on Sunday Auto Sales**

*MADA Position: MADA led the effort to defeat this legislation*

MADA members inundated Legislators with calls and emails telling them to oppose opening up dealerships on Sunday. The bill was introduced by **Rep. Phyllis Kahn** (DFL – Minneapolis), and died of opposition soon thereafter.

### **Street Improvement Fees for Municipalities**

*MADA Position: MADA led the effort to defeat this legislation*

MADA led a coalition of business groups opposed to allowing cities to impose special fees on property owners to fund street improvements. Minnetonka, Sleepy Eye, Milaca, and Henderson also approached the Legislature for special authority to impose a street improvement fee. This policy is a favorite of House Tax Chair **Rep. Ann Lenczewski** (DFL – Bloomington), who included it in the final version of the House Tax Bill this year. We expect to see this proposal again in 2010.

### **Tax on Interest Income**

*MADA Position: MADA opposed this legislation*

Legislators sought to impose a 30% tax on any income earned by a business which collects interest at a rate greater than 15%. This provision, authored by **Sen. Julianne Ortman** (R—Chanhassen) and **Rep. Tom Rukavina** (DFL – Virginia), was largely referred to as a tax on credit card companies, but would have also applied to closed-end transactions such as car loans. The Legislature twice sent this provision to **Governor Pawlenty**, who vetoed it within hours of it getting to his desk.

## **Paid Sick Leave**

*MADA Position: MADA opposed this legislation*

This bill authored by **Rep. John Lesch** (DFL – St. Paul) and **Sen. Ellen Anderson** (DFL -- St. Paul) would have required an employer that employs 15-50 employees to provide a minimum one hour of paid sick leave for every 80 hours worked; and for an employer who employs more than 50 employees, the bill would have required one hour of paid sick leave for every 40 hours worked. The bill enjoyed a lot of support in the House of Representatives, but failed to get a committee hearing in the Senate.

## **Requiring State Fleet to Be Purchased From MN Manufacturer of Trucks**

*MADA Position: MADA opposed this legislation*

St. Paul legislators **Rep. Carlos Mariani** (DFL – St. Paul) and **Sen. Ellen Anderson** (DFL – St. Paul) are always looking for new ways to incentivize Ford Motor Company to retool its Ford Ranger production facility located on the banks of the Mississippi River. This bill is another attempt to do that by requiring that the state's fleet be purchased only from a Minnesota manufacturer. The bill did not make it to the floor of the House and did not get a committee hearing in the Senate.

## **Sales Tax on Services**

*MADA Position: MADA opposed this legislation*

With the state's budget deficit in need of a solution and Legislators determined to increase taxes, several tax increase proposals were discussed, but did not make it into the final tax bill. Nonetheless, they are likely to reemerge in the 2010 session. Next year, we should expect to see another attempt to impose a sales tax on legal and accounting services, as well as a sales tax on auto repair services.

## **Increasing Sales Tax by Counties**

*MADA Position: MADA opposed this legislation*

The House of Representatives passed a measure authored by **Rep. Paul Marquart** (DFL – Dilworth) to allow counties to impose an additional .5% sales tax and .5% motor vehicle excise tax. MADA negotiated the provision to mirror other local option sales taxes where the local excise tax on motor vehicles is capped at \$20. This provision did not survive the Tax Conference Committee, and was not sent to the Governor.

## **Motor Vehicle "Feebate" Task Force**

*MADA Position: MADA opposed this legislation*

This bill sets up a task force to create a system of fees and rebates imposed on vehicle owners based on how fuel-efficient their vehicle is. This bill, authored by **Sen. Scott Dibble** (DFL – Minneapolis) and **Rep. Frank Hornstein** (DFL – Minneapolis) did not advance this session, but expect to see it again next year.

## **Prohibiting Repair Shops Owned By Insurance Companies**

*MADA Position: MADA supported this legislation*

MADA supported this bill championed by the Alliance of Automotive Service Providers of Minnesota and authored by **Rep. Leon Lille** (DFL -- North St. Paul) and **Sen. Mary Olson** (DFL – Bemidji). The bill would prohibit insurance companies who do business in the State of Minnesota from having an ownership interest in repair shops. Repair shops, where the insurer pays for the very repairs for which it controls the estimate and the repair process, jeopardize the quality of vehicle repairs for consumers. This is potentially problematic for the owner of the vehicle being repaired and for future owners of the vehicle that will ultimately be returned to the stream of commerce. This bill advanced through the committee process to the floors of both the House and Senate. Unfortunately, the Legislature ran out of time before they could bring this bill up for a floor vote in either body.

## **Use of HOV Lanes by Electric Vehicles**

*MADA Position: MADA supported this legislation*

MADA supports policies which provide incentives for customers interested in purchasing new vehicle technology. Several bills proposed allowing single-occupant drivers of electric vehicles to use high-occupancy vehicle (HOV) lanes. This is a practical incentive for metro drivers. However, this proposal failed due to the fact that allowing single occupants of any vehicle in HOV lanes jeopardizes Federal highway funds. So, until that can be clarified at the Federal level, proponents of expanding HOV lane use will continue to be stymied.

## **Federal Stimulus Bill Conformity for Motor Vehicle Sales Tax Deduction**

*MADA Position: MADA supported this legislation*

MADA sought state action to allow customers to deduct the sales tax paid on the purchase of a new motor vehicle from their 2009 state income taxes. The 2009 Federal stimulus bill allows customers to take that deduction on their Federal income taxes. Unfortunately, a conforming change to Minnesota's tax policy would have cost \$8 million. At a time when Minnesota's state budget is \$4.6 billion short, an \$8 million proposal for new car buyers was difficult for Legislators to justify. This legislation did not receive a hearing in either body.

## **Consumer Complaint Database for Attorney General Complaints**

*MADA Position: MADA supported this legislation*

MADA supports the efforts of **Senator Ron Latz** (DFL – St. Louis Park) to create a publicly-accessible database of complaints made to the Minnesota Attorney General's office. Unfortunately, this bill failed due to budget constraints. MADA expects Sen. Latz to pursue this legislation again next year.

## **Corporate Deputy Registrars**

*MADA Position: MADA supported this legislation*

By state law, appointments of private corporations as a deputy registrar were set to expire on January 1, 2012. This year, the Legislature eliminated the 2012 sunset for private corporations to be able to be appointed or to continue to serve as a deputy registrar to handle motor vehicle registration and titling transactions. Unfortunately, this provision was part of the Omnibus Transportation Policy Bill, which was vetoed by Governor Pawlenty.

## **Additional Deputy Registrar to be Appointed in Farmington**

*MADA Position: MADA monitored this legislation, but had no formal position*

The City of Farmington almost had a new full-service office of Deputy Registrar at the Farmington City Hall. Unfortunately, this provision was part of the Omnibus Transportation Policy Bill, which was vetoed by Governor Pawlenty.

## **Requiring 25% of State's Greenhouse Gas Reductions to Come from Transportation Sector**

*MADA Position: MADA monitored this legislation, but had no formal position*

The state currently has a goal of reducing statewide greenhouse gas emissions to a level at least 15 percent below 2005 levels by 2015, to a level at least 30% below 2005 levels by 2025 and to a level at least 80% below 2005 levels by 2050. This bill would have required 25% of those reduction goals to come from the transportation sector. This provision advanced to the floor in both bodies, but did not receive a floor vote.

## **Creation of Policies to Reduce Vehicle Miles Traveled**

*MADA Position: MADA monitored this legislation, but had no formal position*

"Vehicle miles traveled" means non-freight motor vehicle miles traveled per person per calendar year. This bill, authored by **Sen. Scott Dibble** (DFL – Minneapolis) and **Rep. Alice Hausman** (DFL – St. Paul), would have required the Commissioner of Transportation to facilitate the implementation by other public and private entities of policies that have the goal of achieving by 2025 at least a 15% reduction from 2005 levels of vehicle miles traveled. Most of the testimony on this bill seemed to focus on urban planning and incentivizing people to choose alternatives to driving a motor vehicle. This provision did not survive the Transportation Conference Committee, but MADA expects to see this issue return for more discussion next year.

## **Requiring Notice to Secured Party When Older Model Vehicle to Be Dismantled**

*MADA Position: MADA monitored this legislation, but had no formal position*

This bill would have required a dealer who buys an older model vehicle to be dismantled to notify any secured party. Dealers buying older model vehicles to be dismantled or destroyed are already required to notify DVS within 30 days, including the vehicle license plate number, VIN and seller's name and driver's license number. This bill, authored by **Sen. Dan Sparks** (DFL – Austin), did not receive a hearing in either body.

## **Single License Plate**

*MADA Position: MADA monitored this legislation, but had no formal position*

A bill to eliminate the requirement that Minnesota vehicles have both a front and a rear license plate was introduced by **Rep. Steve Smith** (R—Mound). Law enforcement is opposed to Minnesota moving to a single plate system. The bill did not receive a hearing in either body.

## **Right to Repair**

*MADA Position: MADA was opposed to this legislation*

For several years, a group that represents aftermarket parts suppliers has lobbied in Congress and state houses across the country for legislation that would give them free access to the diagnostic codes on OEM parts, including the intellectual property of automakers. The legislation lost its momentum after the auto manufacturers and the Automotive Service Association signed a broad agreement to ensure general availability of service information, tools and training. There have been very few complaints about the lack of access to diagnostic codes ever since the agreement was signed in 2002. Nonetheless, the aftermarket parts suppliers have not given up their pursuit of gaining access to these codes under the guise of allowing consumer choice in repairs. This group tried to find sympathetic Minnesota partners this year, but MADA was able to convince them that the so-called Right to Repair bill has been tried elsewhere and is an unnecessary piece of legislation.

## **A Resolution Memorializing the President of the United States, the United States Secretary of the Treasury, and the United States Treasury Automotive Task Force to Reconsider the Treatment of Minnesota Auto Dealerships**

*MADA Position: MADA supported this legislation*

A handful of Legislators concerned for the plight of terminated dealers, reached out to MADA on the last night of the Legislative Session by introducing an official Legislative Resolution to ask the President of the United States, United States Secretary of the Treasury and every member of the United States Treasury Automotive Task Force to eliminate its requirement that General Motors and Chrysler terminate dealerships in Minnesota. Although the Legislature did not get time to consider the resolution on the last night of session, MADA extends a special thank you to **Senators Jim Metzen** (DFL – South St. Paul), **Chuck Wiger** (DFL—White Bear Lake), and **Tom Bakk** (DFL – Cook) and to **Representative Joe Atkins** (DFL – Inver Grove Heights) for their efforts on our behalf.