

Legal News

Dealer Advertising Makes News - Bad News

Late last month the Federal Trade Commission announced the results of a nationwide “crackdown” joined by attorneys general from around the country against dealers and finance companies who allegedly deceived



DECEPTIVE CAR ADS

Some auto dealers put tempting promises in their ads. But when you try to close the deal, it's another story.

Common Ads & What They Might Hide

- LOW, LOW PRICE!** What's missing? They require a downpayment, plus fees hidden in the fine print.
- Only \$99/ Month** What's missing? Advertised payments are temporary and “balloon” later.
- zero or low-rate loans** What's missing? That advertised low rate sounds great – but when you go to sign the contract, you learn it doesn't apply to you.
- YOU WON!** What's missing? The prize. It's just a way to get you into the showroom.

What to do

Walk away from any dealer whose up-front offer comes with a back-end surprise.
File a complaint at ftc.gov/complaint.

ftc.gov/cars Federal Trade Commission March 2015

vehicle finance and lease customers.

Enforcement efforts included both civil and criminal charges of deceptive advertising, automotive loan application fraud, odometer fraud, deceptive add-on fees, and deceptive marketing of car title loans. The Agency claims a total of 187 enforcement actions in the United States since its last sweep. Six new FTC cases include more than \$2.6 million in monetary judgments.

“For most people, buying a car is one of the largest purchases they’ll make,” said Jessica Rich, Director of the FTC’s Bureau of Consumer Protection. “Car ads must be truthful, loan terms must be clear, and dealer practices must be honest. That’s why our partners are working together to crack down on deceptive marketing about car sales, leasing and financing.”

Dealer Advertising... *continued on page 2*

inside

Crunch Time at the Capitol

MADA Sues for B10 Overreach

Minnesota dealers and the Better Business Bureau have partnered for over 30 years in an effort to keep Minnesota dealer ads in line.

upcoming events

- may 12 Certified Title Minneapolis
- jun 10 Title Basics Brainerd
- jun 19 NitroX Media Day St. Cloud

visit www.mada.org for details, registration and a complete list of Upcoming Events and Training

Deceptive Advertising. Three auto dealers, Cory Fairbanks Mazda of Longwood, Fla., Jim Burke Nissan of Birmingham, Ala., and Ross Nissan of El Monte, Calif., agreed to settle charges that they ran deceptive ads that violated the FTC Act and also violated the Truth in Lending Act (TILA) and/or Consumer Leasing Act (CLA). According to the FTC complaints, ads touted sales, lease or financing options that seemed attractive but were cancelled out by fine-print disclaimers. In other instances, the disclaimers did not disclose relevant terms, such as required down payments.

F&I Add-Ons - Bi-Weekly Payment Programs. For the first time since receiving expanded authority over auto dealers under the Dodd-Frank Act, the FTC has taken two auto enforcement actions involving add-ons, which is the practice of a dealer or other third party adding to the vehicle sales, lease, or finance agreement charges for other products or services. A few examples include extended warranties, payment programs, guaranteed automobile protection (commonly called GAP or GAP insurance), credit

life insurance, road service, theft protection, and undercoating.

The FTC alleged that National Payment Network, Inc., a bi-weekly payment vendor, deceptively misrepresented its auto payment program claiming that it would save consumers money. National Payment Network failed to disclose that the significant fees it charged for the service often canceled out any actual savings. The fees to enroll in National Payment Network's program averaged \$775 on a standard five-year auto loan.

In a related case, the FTC alleged that two Matt Blatt dealerships located in New Jersey violated the FTC Act by failing to disclose or adequately disclose the Bi-Weekly Payment National Payment Network bi-weekly fees.

National Payment Network and Matt Blatt dealerships agreed to settle the FTC charges. National Payment Network will refund more than \$1.5 million to consumers and waive another \$949,000 in fees to current customers during the fee waiver period. Matt Blatt dealerships also will pay \$184,000 to the FTC as part of the settlement.

Complacency is a Bad Idea. Minnesota dealers escaped the latest enforcement actions like we escaped the previous rounds in 2013 and 2014. That's great and Minnesota dealers should be proud of their accomplishments. However, the Federal enforcement agencies and their state enforcement counterparts have waded deep into our business. Their staff, with the experience and knowledge gleaned from hundreds of enforcement actions, appear able and willing to continue challenging dealers and enforcing laws against misleading advertising and abusive business practices.

Minnesota dealers have a great partner to help with advertising compliance. Minnesota dealers and the Better Business Bureau have partnered for over 30 years in an effort to keep Minnesota dealer ads in line. We rely on a set of Advertising Standards created by the industry and monitored and enforced by the BBB.



Minnesota Automobile Dealers Association

The Minnesota Automobile Dealers Association is a non-profit trade association dedicated to the progress of the retail auto industry in Minnesota.

President

Greg House, House Chevrolet, Stewartville

President-Elect

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Crunch Time at the Capitol

With five weeks to go, the pace of activity at the Legislature has accelerated significantly. The House and the Senate are putting the finishing touches on their omnibus budget bills, which will be considered in each body before the end of the month. From there, conference committees comprised of representatives and senators will meet to work out the differences between themselves and Governor Mark Dayton. How the opposing approaches to funding state government and utilizing a \$2 billion budget surplus will be reconciled are not yet evident. There will definitely need to be significant compromise and concessions made by all sides if the Legislature expects to adjourn by May 18, the constitutionally-mandated deadline.

To date, MADA's agenda is faring well. Here is a quick recap of the latest on the Association's priorities. Please note that the status of any of these items could change after this edition of the MADA Newsletter goes to press.

Sunday Closing: The stand-alone bill authorizing Sunday auto sales is dead and no amendments to change the status quo have been offered. The wild card will be what happens during the House debate on the Omnibus Liquor Bill. Speaker Kurt Daudt (R-Crown) has indicated support for an amendment on Sunday liquor sales, which could open the door to discussion on motor vehicle sales, too. MADA is working diligently behind the scenes to limit any Sunday sales discussions to alcohol only.

Transportation Funding: The governor and Senate Democrats are pushing a ten-year package that spends over \$11 billion on highways and transit by instituting new taxes on fuel and raising tab fees and the metropolitan sales tax. The House is looking to invest \$7 billion in roads and bridges over the same timeframe by transferring proceeds from existing taxes on auto parts and rental vehicles to transportation. MADA is working to prevent the 0.25% increase in registration taxes on new vehicles proposed by

the Senate. MADA also successfully thwarted city street improvement fees from being part of either package this year.

Workforce Development: MADA-supported efforts to encourage high school graduates to attend Minnesota's technical colleges by offering free tuition to qualifying students is part of the Senate Omnibus Higher Education and Workforce Bill. The House is providing no such incentive in its package. Efforts to create a new dual training program also have more traction in the Senate than the House. Unfortunately, the Department of Labor & Industry has not been supportive of efforts to expand the program beyond the four industries identified in its "PIPELINE" report that was enacted in 2013. At this time, jobs in the transportation sector will not be eligible to take advantage of the first round of any funding that could be made available.

"Getting to Work" Bill: Efforts to create a new grant program to expand vehicle donation and repair programs to low-income, working Minnesotans has received preliminary funding in the Senate Omnibus Jobs Bill but not the House.

Electric Vehicle Rebate Program: MADA is partner in a coalition of businesses, utilities, environmental groups and consumers advocating to create rebate program to incent the purchase of plug-in electric vehicles. The House, due to a very enthusiastic chair in Pat Garofalo (R-Lakeville), has allocated \$10 million to provide rebates of \$2,500 per electric vehicle sold to consumers within Xcel's service territory. The Senate energy omnibus has no similar provision.

Legal News

Minnesota Overreaches with B10 - MADA Sues

A coalition of vehicle and fuel industry organizations stood up for Minnesota consumers and small businesses by filing suit in federal court alleging that Minnesota's Biodiesel Content Mandate could create significant harm to vehicles that are not designed to be run using such fuel blends. The lawsuit was filed on April 17, 2015.

MADA joined with the Minnesota Trucking Association, Alliance of Automobile Manufacturers, American Petroleum Institute and American Fuel & Petrochemical Manufacturers to sue Minnesota's Pollution Control Agency and Departments of Agriculture and Commerce asserting claims under federal and Minnesota state laws including the Federal Clean Air Act and Minnesota Administrative Procedures Act.

The mandate – which went into effect on July 1, 2014 – requires all diesel fuel sold in the state during the spring and summer months (April through September) contain at least 10 percent biodiesel (B10). Starting in 2018, if certain

conditions are met, all diesel fuel sold in the state during those same months must contain at least 20 percent biodiesel (B20).

The mandate denies consumers in Minnesota access to the diesel fuel recommended for most diesel passenger vehicles and light trucks (up to B5) while likely raising fueling costs for all diesel vehicles, including those heavy-trucks that can accommodate higher blends.

The primary thrust of the lawsuit is that Minnesota shouldn't be allowed to get ahead of the Federal government in regulating biodiesel content in diesel fuel. The suit claims that the Federal government has "preempted" state law in this area in favor of national standards regulating complicated pollution and environmental issues. As this issue of MADA Newsletter goes to print, no responsive documents have been filed by the defendant Minnesota agencies. We'll certainly keep you advised of the progress of this important lawsuit.

Legal News

Employees Have a Right to Review Their Personnel Record

Employers Should Disclose the Right

Minnesota law has long provided that most Minnesota employees have a right to review their personnel record.

A "personnel record" includes such things as a job application, payroll, discipline, performance, attendance and employment history data. The reviewable record typically does not include written references, information relevant to ongoing civil or criminal investigations, results of employer testing and medical records.

A change was made in the law back in 2007 to add an employer disclosure requirement. Minnesota Statute §181.966 requires employers to inform all employees hired on or after January 1, 2008, in writing, of their rights and remedies relating to their personnel file.

The law does not provide words for the notice or the format it should take. Dealers could give a separate disclosure notice to new hires or add language to their employee handbooks.

Minnesota Auto Outlook

Released by:
**Minnesota Automobile
Dealers Association**

Covering the Minnesota automotive market

Data thru February 2015

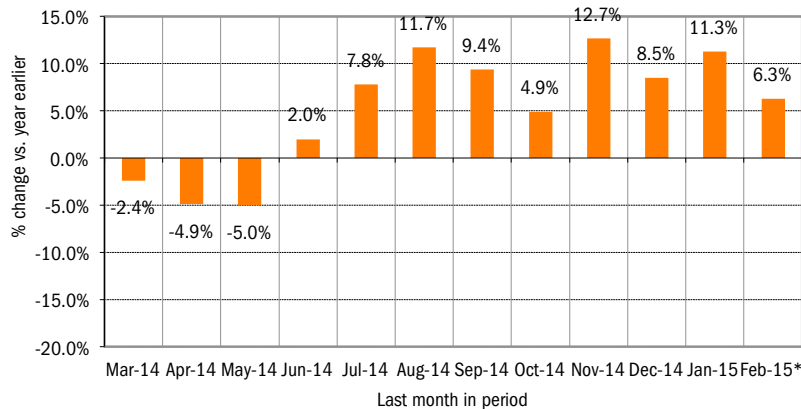
Minnesota New Retail Car and Light Truck Registrations

	Most Recent Two Months			YTD thru Feb.*			YTD Market share (thru Feb.*)		
	1/14 & 2/14	1/15 & 2/15*	% change	2014	2015	% change	2014	2015	change
	Industry Total	26,300	29,488	12.1%	26,300	29,488	12.1%		
Cars	9,189	9,735	5.9%	9,189	9,735	5.9%	34.9	33.0	-1.9
Light Trucks	17,111	19,753	15.4%	17,111	19,753	15.4%	65.1	67.0	1.9
Japanese Brands	8,697	10,122	16.4%	8,697	10,122	16.4%	33.1	34.3	1.2
Toyota	2,974	3,440	15.7%	2,974	3,440	15.7%	11.3	11.7	0.4
Honda	2,210	2,426	9.8%	2,210	2,426	9.8%	8.4	8.2	-0.2
Nissan	1,540	1,719	11.6%	1,540	1,719	11.6%	5.9	5.8	-0.1
Other	1,973	2,537	28.6%	1,973	2,537	28.6%	7.5	8.6	1.1
Domestic Brands	14,610	15,975	9.3%	14,610	15,975	9.3%	55.6	54.2	-1.4
General Motors	6,120	6,918	13.0%	6,120	6,918	13.0%	23.3	23.5	0.2
Ford	5,089	5,365	5.4%	5,089	5,365	5.4%	19.3	18.2	-1.1
Chrysler	3,373	3,658	8.4%	3,373	3,658	8.4%	12.8	12.4	-0.4
Other	28	34	21.4%	28	34	21.4%	0.1	0.1	0.0
European Brands	1,382	1,541	11.5%	1,382	1,541	11.5%	5.3	5.2	-0.1
Volkswagen	628	667	6.2%	628	667	6.2%	2.4	2.3	-0.1
BMW	347	450	29.7%	347	450	29.7%	1.3	1.5	0.2
Mercedes	231	236	2.2%	231	236	2.2%	0.9	0.8	-0.1
Other	176	188	6.8%	176	188	6.8%	0.7	0.6	-0.1
Korean Brands	1,611	1,850	14.8%	1,611	1,850	14.8%	6.1	6.3	0.2

Brands included above: Domestic Brands: GM (Buick, Cadillac, Chevrolet, and GMC), Ford (Ford and Lincoln), Chrysler (Chrysler, Dodge, Jeep, and Ram). Japanese: Toyota (Toyota, Lexus, and Scion), Honda (Honda and Acura), Nissan (Nissan and Infiniti), Other (Mazda, Mitsubishi, and Subaru). European: VW (Audi, Bentley, Porsche, and Volkswagen), BMW (BMW, Rolls Royce, and MINI), MB (Mercedes Benz and smart), Other (Alfa Romeo, Aston Martin, Ferrari, Fiat, Jaguar, Land Rover, Lotus, Maserati, and Volvo). Korean: Hyundai and Kia.

*Figures for February 2015 were estimated by Auto Outlook. Data Source: IHS Automotive.

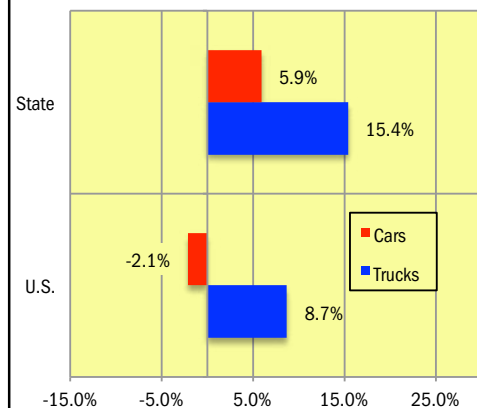
Percent Change in Three Month Moving Average of New Retail Registrations versus Same Period Year Earlier



The graph above provides a clear picture of the trending direction of the state market. It shows the year-over-year percent change in the three month moving average of new retail light vehicle registrations. The three month moving average is less erratic than monthly registrations, which can fluctuate due to such factors as the timing of manufacturer incentive programs, weather and title processing delays by governmental agencies.

*Figures for February 2015 were estimated by Auto Outlook. Data Source: IHS Automotive.

Percent Change in State and U.S. New Retail Light Vehicle Markets YTD '15 thru Feb* vs. YTD 14



The graph above compares the change in new retail car and light truck registrations in both the area and U.S. markets.

*Figures for February 2015 were estimated by Auto Outlook. Data Source: IHS Automotive.

Data Information

All data represents new vehicle retail registrations in Minnesota and excludes fleet and wholesale transactions. Please keep in mind that monthly registration figures can occasionally be subject to fluctuations, resulting in over or under estimation of actual results. This usually occurs due to processing delays by governmental agencies. For this reason, the year-to-date figures will typically be more reflective of market results.

Data Source: IHS Automotive.

Minnesota New Retail Light Vehicle Registrations					
	Registrations			Market share	
	YTD '14 thru Feb	YTD '15 thru Feb*	% change	YTD '14 thru Feb	YTD '15 thru Feb*
TOTAL	26,300	29,488	12%		
Acura	209	218	4%	0.8%	0.7%
Audi	174	187	7%	0.7%	0.6%
BMW	285	352	24%	1.1%	1.2%
Buick	503	530	5%	1.9%	1.8%
Cadillac	205	212	3%	0.8%	0.7%
Chevrolet	4,357	4,882	12%	16.6%	16.6%
Chrysler	377	505	34%	1.4%	1.7%
Dodge	803	747	-7%	3.1%	2.5%
FIAT	29	22	-24%	0.1%	0.1%
Ford	4,914	5,167	5%	18.7%	17.5%
GMC	1,055	1,296	23%	4.0%	4.4%
Honda	2,001	2,206	10%	7.6%	7.5%
Hyundai	819	888	8%	3.1%	3.0%
Infiniti	135	152	13%	0.5%	0.5%
Jaguar	4	6	50%	0.0%	0.0%
Jeep	1,199	1,396	16%	4.6%	4.7%
Kia	792	959	21%	3.0%	3.3%
Land Rover	61	73	20%	0.2%	0.2%
Lexus	228	287	26%	0.9%	1.0%
Lincoln	175	168	-4%	0.7%	0.6%
Mazda	467	588	26%	1.8%	2.0%
Mercedes	228	240	5%	0.9%	0.8%
MINI	62	88	42%	0.2%	0.3%
Mitsubishi	259	340	31%	1.0%	1.2%
Nissan	1,405	1,578	12%	5.3%	5.4%
Other	42	22	-48%	0.2%	0.1%
Porsche	16	35	119%	0.1%	0.1%
Ram	994	1,047	5%	3.8%	3.6%
Subaru	1,244	1,628	31%	4.7%	5.5%
Tesla	3	19	533%	0.0%	0.1%
Toyota	2,746	3,120	14%	10.4%	10.6%
Volkswagen	438	452	3%	1.7%	1.5%
Volvo	71	78	10%	0.3%	0.3%

Data source: IHS Automotive.

Top ten ranked brands in each percent change category are shaded green.

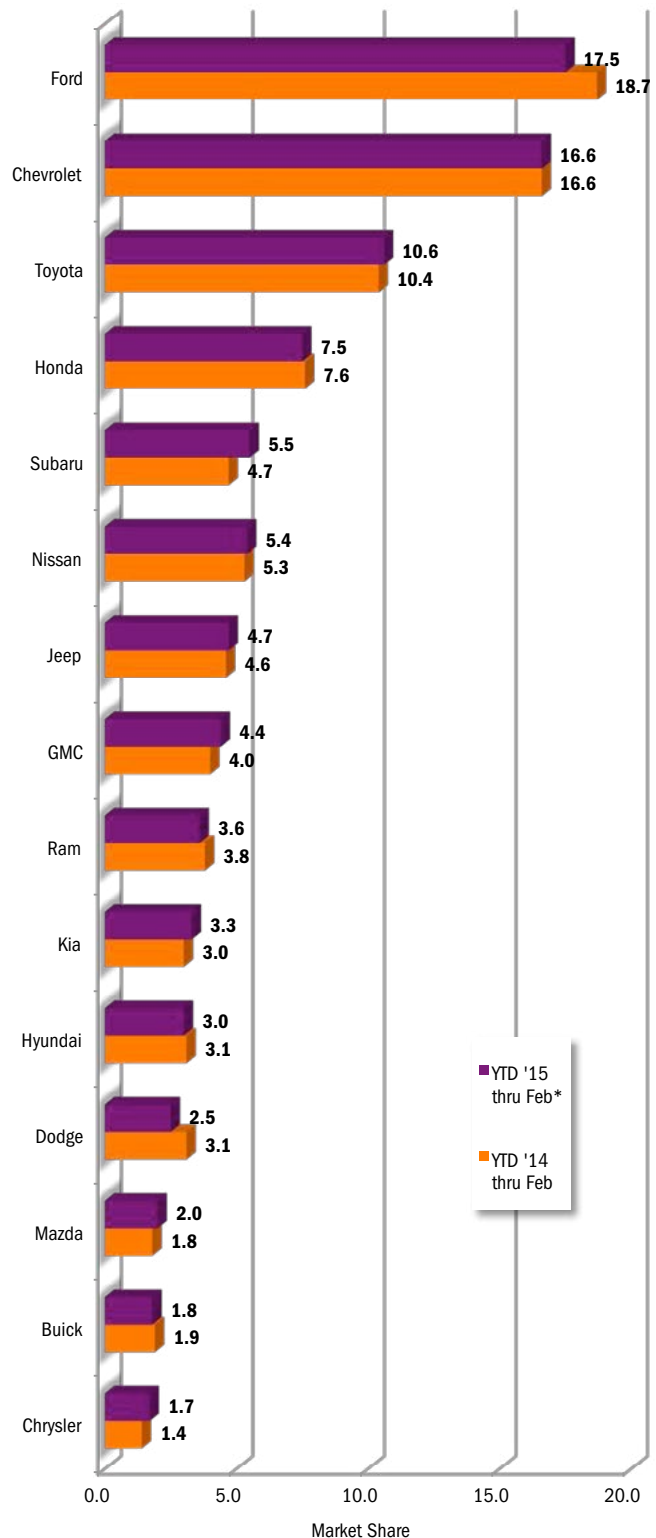
*Figures for February 2015 were estimated by Auto Outlook.

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State Market Share for Top 15 Selling Brands
YTD '15 thru Feb* vs. YTD '14



Data source: IHS Automotive.

*Figures for February 2015 were estimated by Auto Outlook.

Member News

Cornerstone Automotive Group, **Scott Powell** owner, has moved Kia into a new building in Elk River, located at 17094 Vance Street NW. They will be doing business as **Cornerstone Kia**.

Jim and Tom Leonard have opened a new store in Stillwater for their Jeep franchise. The store is located at 12969 North 60th Street and will be doing business as **Fury Stillwater**.

DeBoer Motors of Tyler has closed after 95 years in business.

visit us online at
www.mada.org

FAQ

Q: We're a high end store with many customers throughout the State of Minnesota. Leasing has become a big part of our business. We understand that with retail leases, we collect sales tax up front. Unlike tax on the sale of vehicles that we remit to the Deputy Registrar, we instead report the lease sales tax on our monthly report to the Minnesota Department of Revenue. What tax rate should we use?

A: Use the Minnesota sales tax rate that applies to the location where the leased vehicle will be garaged. The rate includes any local taxes which apply to the garaged location. For example, if the lessee lives and principally garages the leased vehicle in Appleton, Minnesota you should collect and remit sales tax at the base rate of 6.875%. No local taxes apply in Appleton. If the lessee lives and principally garages the leased vehicle in South Minneapolis, the tax rate is 7.775% which includes the base rate -- 6.875%, Hennepin County -- 0.15%, Minneapolis -- 0.5% and Transit Improvement -- 0.25% add-ons.

This may well be properly programmed into your DMS system, but it's worth checking. MADA heard from a dealer recently who took a pretty big hit on this issue when the Minnesota sales tax auditor came for a visit.



Endorsed Service & Vendors

Computerized Vehicle Registration
CVR

F&I Products
Protective

Dealership Marketing
Visible Customer

Group Health Insurance
Blue Cross Blue Shield of MN
Delta Dental
ReliaStar Life

Workers Compensation
Ensure Agency

Dealer Bond Program
Ensure Agency

Collections
Springer Collections

Check Guarantee/Credit Card Processing
FIS / Certegy

*Disability Income Insurance & Section 125
Cafeteria Plans*
American Fidelity Assurance

OSHA, EPA & DOT Compliance/Training
ComplyNet Corporation

Fleet Fueling Program
SuperAmerica

Office Supplies
S & T Office Products

Uniforms and Linen Services
AmeriPride Linen & Apparel
Services

Hole-In-One Insurance
Hole-In-One-USA

Pre-Paid Legal, Jim Gavin
Identity Theft Shield &
Pre-Paid Legal Services



MADA Services sells a wide variety of products directly to the dealers including business forms, clothing and promotional items. For a full review of options, contact your sales representative at 651-291-2400 or go to www.mada.org

ADVOCACY ▪ EXPERTISE ▪ EDUCATION ▪ COMMUNICATION

MADA NEWS ▪ April 2015

MADA Wants to Know....

How satisfied are you with your manufacturer partner?

Tell us at

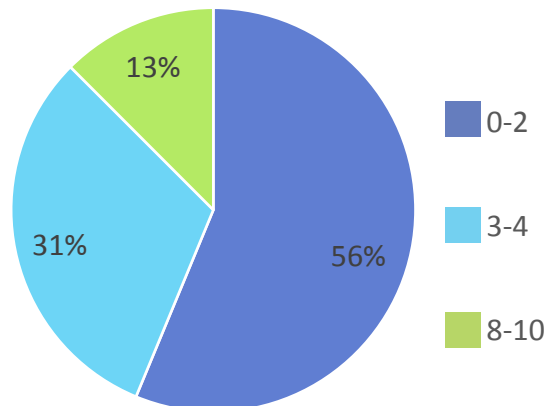
<http://bit.ly/MADAquestion>

All results will be collected anonymously and published in the May MADA newsletter.

Last month, we asked members to let us know about how many vacancies they have in their dealership service repair and/or bodyshop. Members were more hesitant to share this information than they were about the dealer management system (DMS) they use. Here are the results:

March Results:

How many unfilled positions do you currently have in your dealership service repair and/or body shop?





Education Fax Registration

FAX REGISTRATION TO: 651-291-2894
Denise Anderson denise@mada.org

The Certified Title & Registration Program	Class Options	Circle Preferred Date	Location
	Sales Tax 9:00 a.m. - 10:00 a.m. \$129	May 12, 2015 or July 14, 2015	Doubletree by Hilton - Park Place 1500 Park Place Blvd Minneapolis, MN 55416
	New to Fleet 10:30 a.m. - 12:30 p.m. \$129	May 12, 2015 or July 14, 2015	
	Minnesota Titles and Transfers 1:00 p.m. - 3:00 p.m. \$129	May 12, 2015 or July 14, 2015	

Title Basics	Class Options	Circle Preferred Date	Location
	Title Basics – Brainerd 9:30 a.m. - 11:30 a.m. \$199	June 10, 2015	Grand View Lodge 23521 Nokomis Avenue Nisswa, MN 56468
	Title Basics – Minneapolis 9:30 a.m. - 11:30 a.m. \$199	July 14, 2015	Doubletree by Hilton - Park Place 1500 Park Place Blvd Minneapolis, MN 55416

Name _____	Title _____
Name _____	Title _____
Dealership _____	Customer ID # _____
Address _____	
Phone _____	E-mail _____