

### Legal News

## Lawsuits Cloud TRUECar Claims of Transparency

TrueCar made a big splash in the retail car business four years ago with a slick ad campaign, access to dealer-DMS vehicle pricing and dealer payments for sales - not leads. But after a big start, TrueCar started to draw the attention of regulators here in Minnesota and around the country.

Paying for sales amounts to “brokering” automobiles.

Brokering automobiles requires a dealer’s license. TrueCar didn’t have one. Dealers were also not impressed with what they felt was an anti-dealer bias in TrueCar’s advertising. They were also not impressed with invoice-based pricing claims that many believe are inherently deceptive and misleading to consumers.

Now four years later, after TrueCar allegedly changed its ways, it faces three lawsuits which fundamentally challenge its business model:

- On March 9, 2015, 117 dealers filed a lawsuit in U.S. District Court in New York, claiming TrueCar made false claims in advertisements and created unfair competition. The suit claims that TrueCar’s ads assert that potential buyers “can purchase an automobile with no haggling and ‘no negotiation.’” The suit contends that isn’t accurate because TrueCar provides dealers with sales leads and customer contact information. However, it doesn’t eliminate the “haggling” process, according to the suit.
- On May 20, 2015, the California New Car Dealers Association filed a lawsuit against TrueCar seeking injunctive relief alleging that TrueCar is acting like a dealer but operating without a

*TrueCar Lawsuits... continued on page 2*

### inside

MADA Dealer Bond Program  
Renewal

NADA Streamlines Operations

Employee Handbook Guidance

### upcoming events

Jul 14 Certified Title  
Minneapolis

Jul 14 Title Basics  
Minneapolis

Aug 13 Vendor Appreciation Night  
Shakopee

visit  
[www.mada.org](http://www.mada.org)  
for details, registration  
and a complete list of  
Upcoming Events and  
Training

TrueCar Lawsuits... *continued from cover*

license. The Association is charging that TrueCar, which offers pricing and other buying services through its website, is breaking state laws pertaining to dealer licensing and consumer protection by acting as a facilitator of a sale.

- On May 27, 2015, a class action complaint was filed in Federal Court in California alleging violations of Federal securities laws in connection with certain allegedly false and misleading statements. The plaintiffs claim that TrueCar failed to disclose that its business practices violated unfair competition and deceptive trade practice laws, and that TrueCar acts as a dealer and broker in car sales transactions without proper licensing.

TrueCar is vigorously defending all of the lawsuits.

Legal News

## OSHA® Labeling Rules - Manufacturer and Distributor Deadline June 1

Dealers should be seeing the full impact of the new OSHA hazardous chemical labeling program which the agency has been implementing incrementally since 2013. The labeling initiative is designed to align US chemical labels with global standards adopted by the United Nations. As a result, workers will have better information available on the safe handling and use of hazardous chemicals, thereby allowing them to avoid injuries and illnesses related to exposures to hazardous chemicals.

The most recent deadline applies to manufacturers and distributors. All hazardous chemicals shipped after June 1, 2015, must be labeled with specified elements including pictograms, signal words and hazard and precautionary statements.

Dealers' primary obligation with respect to the new labeling standards is training. That obligation began in December, 2013.

Dealers who are looking for assistance with the new labeling training or OSHA, EPA and DOT compliance in general should contact MADA endorsed ComplyNet.

MADA News



MADA is very pleased to announce the transfer of control of Visible Customer to a private investment group. Visible Customer offers cutting edge technology unique to the dealer business that allows dealers to fully engage their current customer base. Although all operational decisions are now being made by new management, MADA remains very confident about the future of this company. Both MADA and MADA Services, Inc. are maintaining an investment in the groundbreaking data marketing company.



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.*

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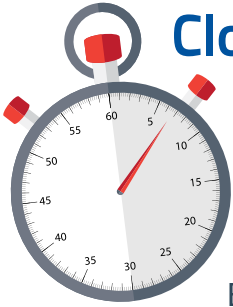
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## Legislative News



# Clock Ticking on Special Session

## *Partial Government Shutdown Looms*

At the end of the regular legislative session, Governor Mark Dayton (DFL) made good on his promise to veto the K-12 Education Finance Bill due to its lack of funding for universal pre-kindergarten programs. In addition, he took his veto pen to the Omnibus Jobs and Omnibus Agriculture and Environment Budget Bills because of concerns over both policy and lackluster funding provisions.

Without budgets enacted for these areas by July 1, the state could face a partial government shutdown impacting state parks, unemployment services, and agricultural extension offices. Neither Dayton nor legislative leadership want a shutdown, but they are getting close to the brink. While compromises on public school funding (noticeably, without the governor's

pre-kindergarten dollars) and the environment and farm provisions have been agreed to, a stalemate has arisen over the Office of State Auditor. Governor Dayton already signed a bill which includes language to allow Minnesota counties to utilize private auditors to inspect their finances. Since then, he has insisted that the Special Session include a bill to reverse course and eliminate the provision authorizing the private audits. House Republicans are loathe to undo this change, bringing negotiations to a standstill.

MADA is awaiting repassage of an Omnibus Jobs Bill, which may include some policy provisions we are tracking. Fortunately for our members, the budget for Driver and Vehicle Services has already passed and no vehicle registration functions would be disrupted in the event of a partial shutdown.

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## MADA News

# MADA's Dealer Bond Program Renews August 1<sup>st</sup>

MADA's \$50,000 Motor Vehicle Dealer Bond Program is renewing for a new 3-year term of August 1, 2015 through July 31, 2018, with no change in premium. Existing bondholders under this MADA program only need to pay the billed premium to renew their bond. (Premium billings are being sent out this month.)

The large number of MADA members who participate in the MADA Bond Program make it possible for our bond offering to be both relatively easy to apply for and very affordable. In addition, unlike most other dealer bonds, our program does not ask for personal indemnification by the corporate owners of a dealership franchise. If you

do not currently have your dealer bond through our program, we invite you to contact us.

**REMINDER FOR ALL DEALERS** – Any time you make any corporate changes to your business name, address, dba, ownership, etc., IT IS IMPERATIVE that you make appropriate changes to both your dealer license and your dealer bond. To fully comply with state law, all changes need to be reported to the state dealer unit and the bonding company. Failure to report changes puts you at risk for a host of potential tax and coverage problems! **KEEP YOUR DEALER LICENSE AND BOND IN COMPLIANCE!**

## **NADA Moves To Streamline Business Operations**



NADA recently announced two major program changes designed to streamline its operations and maintain its focus on its central legal, legislative and regulatory functions.

First, NADA announced this spring that it would phase out its decades-long NADART retirement program and replace it with a new sponsored program from Empower. The new plan has been specifically designed for NADA members and boasts a low fee schedule. The transition from NADART to Empower relieves NADA of significant personnel costs at its Washington, D.C. headquarters, while still offering members a robust retirement program.

Then in late May, NADA President Peter Welch announced the sale of NADA's Used Car Guidebook to J. D. Power & Associates. The Guide Company has been a part of NADA for over 80 years, but the NADA Board of Directors carefully considered the options available to them to maintain a viable enterprise and arrived at a unanimous consensus to sell to J.D. Power.

NADA continues to stay atop the challenging regulatory environment presented by the Obama Administration, and its top priority is stopping the Consumer Financial Protection Bureau (CFPB) from wrecking the vehicle finance market.

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### **Legal News**

## **Employee Handbooks May Not Chill Collective Bargaining**

Federal law protects the right of employees to organize, form unions and collectively bargain. In general, employers can't have workplace rules or policies which infringe on this employee right.

The National Labor Relations Board (NLRB), which oversees and enforces these laws, issued a formal "Guidance" memo this spring outlining the Board's position on legal and illegal employee handbook provisions.

The Guidance focuses on overly broad employer policies involving confidentiality, harassment and media contacts which might tend to unlawfully chill the rights of employees to organize. For example, the NLRB lists as unlawful handbook policies:

- Prohibiting discussions of "customer or employee information" including employee "phone numbers and addresses."
- Prohibiting disclosure of "another's confidential or other proprietary information" or requiring confidentiality of "private or internal" conversations.
- Prohibiting discussions about "work matters," or any employer information that is "not public," unless the handbook specifically excludes discussion of wages, hours and working conditions.
- Requiring employees to "be respectful of others and the Company" because employees may construe such provision to ban protected protests.

Employer media policies must make clear that any prohibition on speaking with the media only prohibits speaking on behalf of the employer without authorization. Employees should not be led to believe that they are restricted from speaking with the media regarding their employment in an individual capacity regarding wages, benefits, and other terms and conditions of employment.

# Minnesota Auto Outlook

Released by:  
**Minnesota Automobile  
Dealers Association**

Covering the Minnesota automotive market

Data thru April 2015

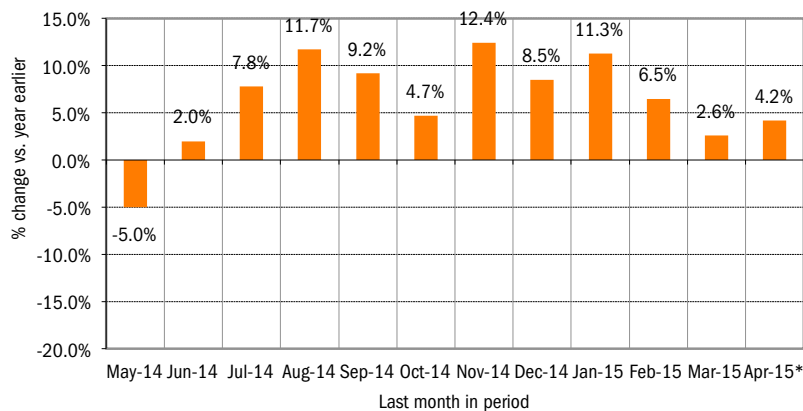
## Minnesota New Retail Car and Light Truck Registrations

	Most Recent Two Months			YTD thru April*			YTD Market share (thru April*)		
	3/14 & 4/14	3/15 & 4/15*	% change	2014	2015	% change	2014	2015	change
	Industry Total	36,983	37,472	1.3%	63,259	67,045	6.0%	37.2	35.1
Cars	14,376	13,559	-5.7%	23,558	23,505	-0.2%	62.8	64.9	2.1
Light Trucks	22,607	23,913	5.8%	39,701	43,540	9.7%	34.2	33.7	-0.5
Japanese Brands	12,913	12,564	-2.7%	21,606	22,622	4.7%	11.9	11.7	-0.2
Toyota	4,572	4,468	-2.3%	7,546	7,819	3.6%	8.9	8.5	-0.4
Honda	3,444	3,253	-5.5%	5,653	5,690	0.7%	5.4	5.4	0.0
Nissan	1,874	1,893	1.0%	3,412	3,629	6.4%	7.9	8.2	0.3
Other	3,023	2,950	-2.4%	4,995	5,484	9.8%	53.5	54.0	0.5
Domestic Brands	19,244	20,105	4.5%	33,834	36,207	7.0%	21.8	22.6	0.8
General Motors	7,687	8,109	5.5%	13,799	15,137	9.7%	18.9	18.9	0.0
Ford	6,855	7,174	4.7%	11,935	12,699	6.4%	12.7	12.4	-0.3
Chrysler	4,671	4,780	2.3%	8,041	8,289	3.1%	0.1	0.1	0.0
Other	31	42	35.5%	59	82	39.0%	5.9	5.9	0.0
European Brands	2,363	2,400	1.6%	3,746	3,965	5.8%	2.9	2.8	-0.1
Volkswagen	1,222	1,153	-5.6%	1,851	1,859	0.4%	1.4	1.5	0.1
BMW	548	576	5.1%	895	983	9.8%	0.9	1.0	0.1
Mercedes	360	430	19.4%	591	679	14.9%	0.6	0.7	0.1
Other	233	241	3.4%	409	444	8.6%	6.4	6.3	-0.1
Korean Brands	2,463	2,403	-2.4%	4,073	4,251	4.4%			

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 April 2015 were estimated by Auto Outlook. Data Source: IHS Automotive.

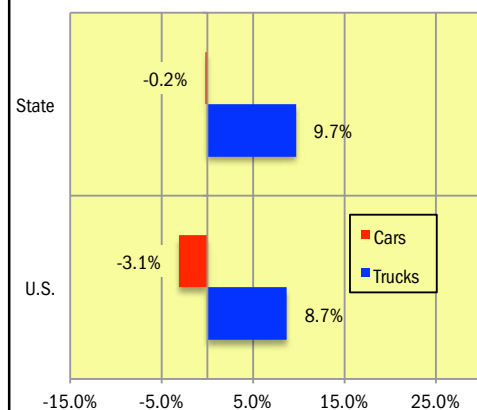
### Percent Change in Three Month Moving Average of New Retail Registrations versus Same Period Year Earlier



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 April 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 April\* 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 April 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 Apr.	YTD '15 thru Apr.*	% change	YTD '14 thru Apr.	YTD '15 thru Apr.*
TOTAL	63,259	67,045	6%		
Acura	543	502	-8%	0.9%	0.7%
Audi	502	555	11%	0.8%	0.8%
BMW	747	796	7%	1.2%	1.2%
Buick	1,208	1,277	6%	1.9%	1.9%
Cadillac	467	516	10%	0.7%	0.8%
Chevrolet	9,664	10,477	8%	15.3%	15.6%
Chrysler	994	1,346	35%	1.6%	2.0%
Dodge	2,151	1,771	-18%	3.4%	2.6%
FIAT	80	60	-25%	0.1%	0.1%
Ford	11,586	12,325	6%	18.3%	18.4%
GMC	2,460	2,858	16%	3.9%	4.3%
Honda	5,110	5,179	1%	8.1%	7.7%
Hyundai	1,963	1,991	1%	3.1%	3.0%
Infiniti	275	284	3%	0.4%	0.4%
Jaguar	18	21	17%	0.0%	0.0%
Jeep	2,673	2,816	5%	4.2%	4.2%
Kia	2,110	2,263	7%	3.3%	3.4%
Land Rover	125	181	45%	0.2%	0.3%
Lexus	658	784	19%	1.0%	1.2%
Lincoln	349	361	3%	0.6%	0.5%
Mazda	1,345	1,434	7%	2.1%	2.1%
Mercedes	583	666	14%	0.9%	1.0%
MINI	148	181	22%	0.2%	0.3%
Mitsubishi	682	750	10%	1.1%	1.1%
Nissan	3,137	3,335	6%	5.0%	5.0%
Other	71	38	-46%	0.1%	0.1%
Porsche	68	101	49%	0.1%	0.2%
Ram	2,223	2,374	7%	3.5%	3.5%
Subaru	2,962	3,368	14%	4.7%	5.0%
Tesla	23	56	143%	0.0%	0.1%
Toyota	6,888	7,029	2%	10.9%	10.5%
Volkswagen	1,281	1,192	-7%	2.0%	1.8%
Volvo	165	158	-4%	0.3%	0.2%

Data source: IHS Automotive.

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

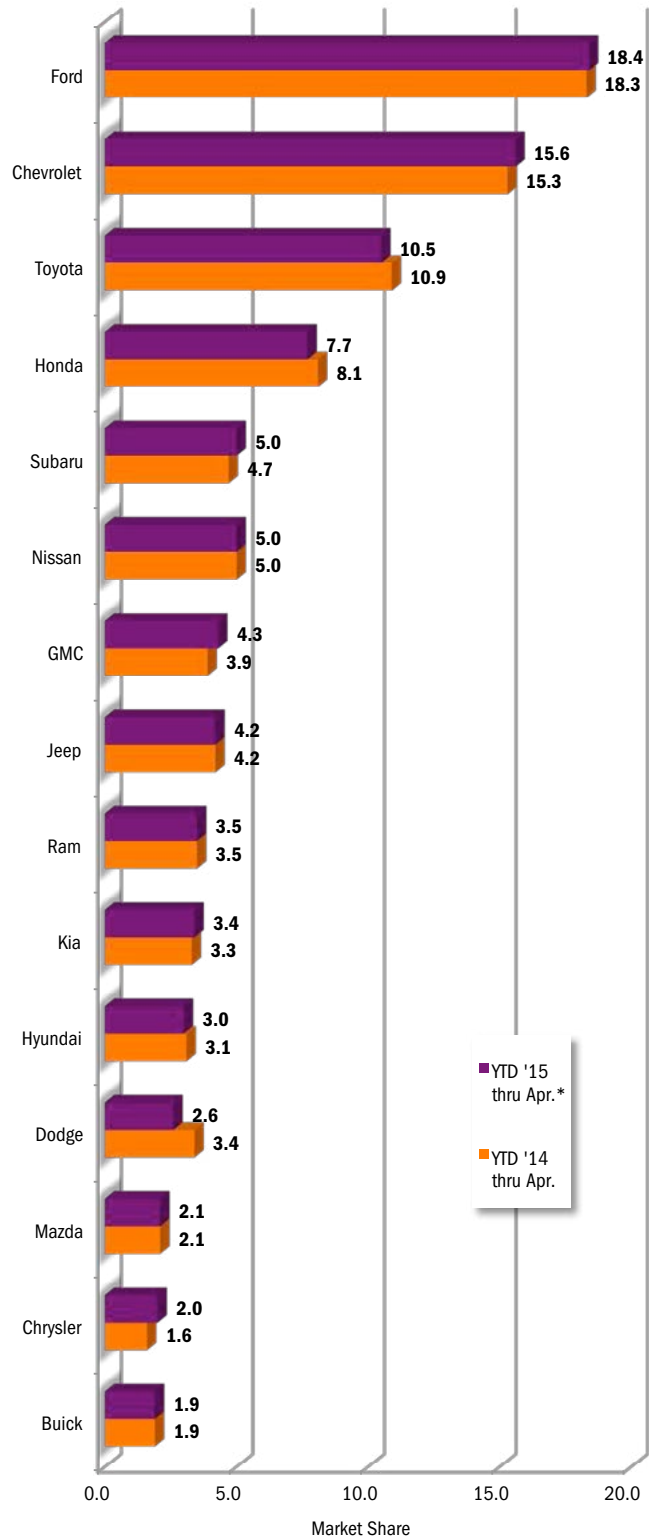
\*Figures for April 2015 were estimated by Auto Outlook.

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



Data source: IHS Automotive.

\*Figures for April 2015 were estimated by Auto Outlook.

## Member News

**Tom Kadlec Kia** has opened at 4444 Hwy 52 North, Rochester. The owner is **Tom Kadlec** and **John Prinzing** is the GM.

**Dahl Chevrolet, Buick, GMC Inc. of Winona** has moved into a new facility located at 1201 West Highway 61, Winona.

visit us online at  
[www.mada.org](http://www.mada.org)

## FAQ

**Q:** The recent Takata airbag recall campaign has brought this question around again at our store. We understand that we can't sell **new** vehicles with an open recall. But what about used cars?

**A:** The National Automobile Dealers Association has published several memos outlining dealers' obligations with respect to the sale of used vehicles with open recall notices. According to NADA:

**Used vehicles of a make the dealer is franchised to sell new.** Federal law neither imposes an obligation on dealerships to know the safety recall status of used vehicles, nor prohibits the resale of used vehicles with outstanding safety recalls. However, it is recommended that used vehicles of the same make a dealer sells new be checked for outstanding, unremedied recalls (safety or emissions) since the dealership is authorized to do service or repair work involved. Important: if and when a dealership receives a recall notice indicating that certain used vehicles should not be operated and/or resold, they should not be operated or resold until the recall is remedied.

**Used vehicles the dealer is not franchised to sell new.** Again, Federal law neither imposes an obligation on dealerships to know the safety recall status of used vehicles, nor prohibits the resale of used vehicles with outstanding safety recalls. However, state law may impose additional obligations. For example, state product liability laws may impose liability in this situation if (1) a dealer chooses to sell a used vehicle containing the safety-related defect, and (2) that used vehicle is in an accident involving the defect.

Dealers with questions should contact General Counsel Jim Schutjer at your MADA office.



*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](http://www.mada.org)

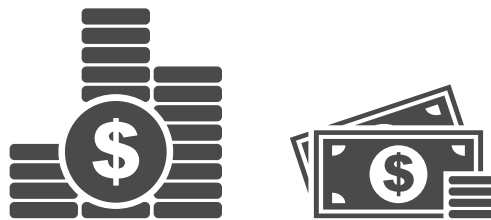
ADVOCACY ▪ EXPERTISE ▪ EDUCATION ▪ COMMUNICATION

MADA NEWS ▪ June 2015

## Be Prepared:

Minnesota's minimum wage climbs to \$9.00/hour on August 1, 2015.

The age 17 and under rate remains at \$7.25.







# Education Fax Registration

FAX REGISTRATION TO: 651-291-2894  
Denise Anderson [denise@mada.org](mailto:denise@mada.org)

	Class Options	Circle Preferred Date	Location
Title Basics	<b>Title Basics – Minneapolis</b> 9:30 a.m. - 11:30 a.m. \$199	<b>July 14, 2015</b> <b>September 15, 2015</b>	<b>Doubletree by Hilton - Park Place</b> 1500 Park Place Blvd Minneapolis, MN 55416

	Class Options	Circle Preferred Date	Location
The Certified Title & Registration Program*	<b>Sales Tax</b> 9:00 a.m. - 10:00 a.m. \$129	<b>July 14, 2015</b> <b>September 15, 2015</b>	<b>Doubletree by Hilton - Park Place</b> 1500 Park Place Blvd Minneapolis, MN 55416
	<b>New to Fleet</b> 10:30 a.m. - 12:30 p.m. \$129	<b>July 14, 2015</b> <b>September 15, 2015</b>	
	<b>Minnesota Titles and Transfers</b> 1:00 p.m. – 3:00 p.m. \$129	<b>July 14, 2015</b> <b>September 15, 2015</b>	

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

\*Lunch is included, sponsored by CVR.

For Information on these classes or to register online go to [www.mada.org/training](http://www.mada.org/training)