

### MADA News

## Warranty reimbursement statutes are under manufacturer attack

The issue of warranty reimbursement was a hot topic at the recent Automotive Trade Association Executives summer meetings. Most associations seemed inclined to stay out of their legislatures until pending lawsuits in Florida and Connecticut are wrapped up.

Minnesota, like many states, has a franchise law which helps dealers receive fair compensation from their largest service customer and business partner - their manufacturer. What's fair compensation? Our law - like many states - looks to the same standard of fairness. The manufacturer must pay dealers retail.

The Minnesota statute leaves room for interpretation of this retail standard. What's a "reasonable and adequate" time allowance? Is the factory allowance of .6 hours fair and adequate when the independent Chilton manual allows 1.1 hours? On the parts side – what constitutes a part in a "like service?" Should a dealer's parts markup on oil filters and tires, which are seldom or never used in a warranty repair, be included in the matrix to determine a warranty parts retail rate?

**...the precedent could well extend to the enforceability of other crucial state franchise law protections.**

Some states have added strict formulas and recoupment prohibitions to their statutes in an attempt to legislate higher compensation for dealers. The formulas specify enormous detail about the calculation of "retail" and administration of warranty parts. These state statutes also typically prohibit manufacturers from trying to recover extra warranty costs by surcharging dealers on new vehicle sales.

The manufacturers are fighting back in federal court. The Alliance of Motor Vehicle Manufacturers has challenged these types of laws

*Warranty reimbursement statutes... continued on page 2*

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oct 8 Body Shop Estimating  
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Service & Body Shop  
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Minneapolis

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

## Warranty reimbursement statutes (cont. from cover)

in two states so far – Florida and Connecticut. Both of the challenged provisions were enacted in 2009 in the wake of the factory bankruptcies when dealer associations around the country were finding sympathetic state legislatures. The statutes in the two states contain important differences. The Florida statute is arguably more “dealer friendly” than the Connecticut statute. But, in general terms, they both employ a formula approach to the parts reimbursement calculation and contain an anti-recoupment provision.

The Alliance is challenging the formula and anti-recoupment provisions claiming that they violate the United States Constitution. According to the Alliance, the warranty reimbursement formula interferes with the manufacturers’ fundamental due process right to negotiate warranty reimbursement rates. It further argues that the provisions violate the commerce clause as protectionist state legislation that harms out-of-state manufacturer interests in favor of in-state dealer interests and violates the Constitution’s contracts clause as substantially impairing pre-existing dealer agreements and warranty manual rules.

The results of these lawsuits are important to dealers. If the Alliance is successful in arguing that these laws violate the United States Constitution, the precedent could well extend to the enforceability of other crucial state law franchise protections.

MADA staff, in consultation with the Board of Directors, will continue to monitor the state of franchise protection here in Minnesota and around the country. Dealers with questions or concerns about the issue should contact Jim Schutjer at your MADA office.

## Services News

### Revised contract versions reflect changes

Are you still using the Banker Systems Installment Contract #RS-SI-MV-MN 4/5/2006 that is being phased out? MADA will continue to sell this form from available stock until Oct. 1 when the outdated form will be replaced by #RSSIMVLF-MN 11/11/2012. In the face of close scrutiny and compliance concerns by various lenders, the 2006 installment contract form is fast approaching “end of life.”

**“...the 2006 installment contract form is fast approaching ‘end of life.’”**

Also, the stock MADA Vehicle Purchase Agreements (buyers order) have been modified to accommodate the expanded transit tax and the general sales tax change on maintenance contracts. These new purchase agreements will automatically replace our current version.

Dealers should check with DMS providers for reprogramming needs.

Samples of the updated contracts are available from Jack Kohls at your MADA office.



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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# MNsure is Minnesota's health insurance exchange

Public health insurance exchanges are mandated by the federal health reform law, which granted states the choice to build their own or face a federally imposed version. Minnesota elected to build its own, called **MNsure**, which is scheduled to open October 1, 2013. **MNsure** is generally designed for individuals not insured under an employer provided plan and for employers with fewer than 50 employees. The website is [mn.gov/hix/](http://mn.gov/hix/)

A seven-person board directs **MNsure** which is governed by a new state agency expected to employ nearly 100 new state full-time employees. Unlike similar boards, **MNsure** is exempt from oversight and rulemaking processes.

**MNsure** is projected to cost approximately \$60 million annually to operate. It will be financed in 2014 with a \$20 million general fund loan and an expected 1.5 percent premium tax on products sold within **MNsure**. In 2015 and beyond, it will be financed by a 3.5 percent premium tax on both **MNsure** products and fully-insured products.

Nine insurance companies have registered to participate in **MNsure**. Although the insurance companies filed premium rates on July 31, 2013, under Minnesota law **MNsure** cannot release the rates until October 1, 2013. However, rates may be released by September 6th if all participating insurance companies agree with a recent request by the Department of Commerce.

### Effect on Dealers' Benefit Plans

**MNsure** has caused many of our dealers to question the effect on their employee benefit plans. There are a number of differences distinguishing private insurance plans from what is expected through the exchange.

#### •Potential Limited Access

Beginning in 2015, the **MNsure** Board has the authority to select the plans offered through the exchange. It will pick winners and losers.

There will be no ancillary benefits offered by **MNsure**. Coverage for dental, vision, life insurance, disability income coverage and wellness benefits will not be available through the exchange.

#### •Tax Subsidy

Beginning in 2014, small employers (less than 25 full-time equivalent employees) can potentially receive a tax subsidy but only if the employer sponsored health insurance is purchased through an exchange.

#### •Comprehensive Benefits

There will be no ancillary benefits offered by **MNsure**. Coverage for dental, vision, life insurance, disability income coverage and wellness benefits will not be available through the exchange.

#### •Support Services

Dealers have generally relied upon the support of their insurance representatives and insurance companies to provide support services. Similar services may not be available from the exchange. These services often include employee education, custom communications, COBRA, and employer support.

Most of our dealers rely on their insurance representatives and companies to provide an array of products and services. We expect eligible dealers will carefully compare premiums, benefits, and support services between their current service providers and the exchange.

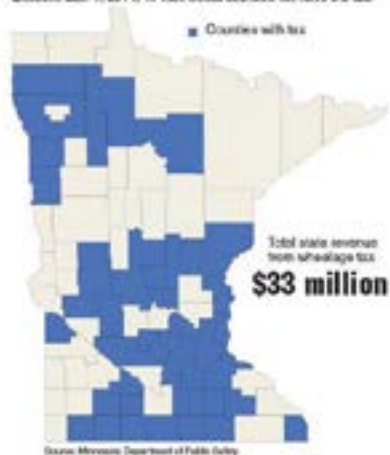
### MADA Insurance, Inc.

The MADA Insurance Group Benefits Program offers dealers with similar business and human resource issues responsive benefits at competitive premiums. MADA Insurance provides participating dealers comprehensive services such as COBRA, employee enrollment

*Insurance News continued on page 7*

## Wheelage tax

Effective Jan. 1, 2014, 47 Minnesota counties will have the tax.



## Legislative News

# Wheelage Tax expands to 47 counties

This past session, legislation was passed to allow all Minnesota counties the option to impose a \$10 county wheelage tax, to become effective on Jan. 1, 2014.

Currently, only the seven metro-area counties are authorized to impose a \$5 wheelage tax but Hennepin and Ramsey have not imposed this tax.

However, beginning Jan. 1, 47 Minnesota counties (including Hennepin and Ramsey) will impose the tax.

The wheelage tax is levied annually on vehicle registrations and renewals, and is applied according to where the vehicle is primarily kept during non-business hours, not where the vehicle is purchased. Dealerships will be required to apply this new tax on vehicles sold to customers who will keep the vehicle in counties which have approved this tax.

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Revenue from the wheelage tax must be deposited in each county's road and bridge fund and must be used for highway purposes. Under the statute, vehicles that do not require annual registrations are not subject to the wheelage tax, including motorcycles, trailers and collector vehicles.

The complete list of the 47 Minnesota Counties can be found on the DVS website. Anoka County, which currently applies a \$5 wheelage tax, chose to cancel its tax rather than raise it to \$10 in 2014.

Beginning in 2017, counties will have the option to increase their wheelage taxes to "up to" \$20.



## GMADA News

# GMADA Funds BBB ad review

The GMADA Board of Directors gave its unanimous support to the BBB Automobile Advertising Standards Program funding for the upcoming year. This financial support will continue to fund the dedicated BBB staff to monitor and act on complaints related to misleading motor vehicle advertising.

The Better Business Bureau auto advertising program is an important asset to the Minnesota dealer community. The BBB provides education for dealership employees. The Bureau provides

same-day advance review of broadcast and print ads checking for compliance with the BBB Code of Advertising, the Automobile Advertising Standards and Federal Trade Commission guidelines. In addition, the BBB requests substantiation of advertised claims and will examine any questionable advertisements or trade practices brought to its attention.

The BBB Automotive Liaison is Steve Farr. If you have concerns, questions or a complaint about advertising, please contact Steve: sfarr@thefirstbbb.org or 651-695-2430.

# Minnesota Auto Outlook

Released by:  
Minnesota Automobile  
Dealers Association

Covering the Minnesota automotive market

Data thru June 2013

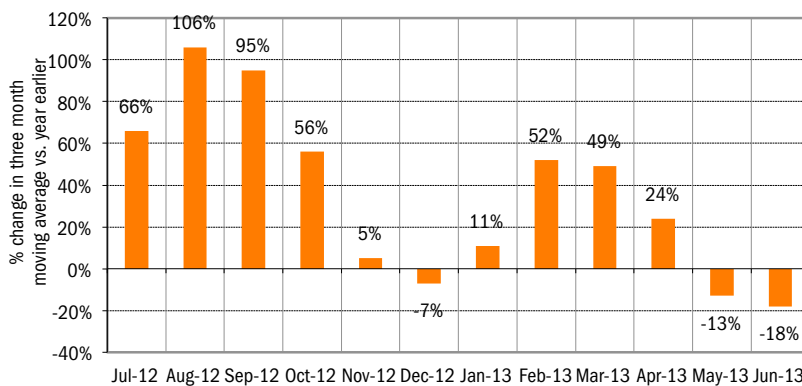
## Minnesota New Retail Car and Light Truck Registrations

	Most Recent Two Months			YTD thru June			YTD Market Share			
	5/13 & 6/13		%	2012		%	2012		2013	change
	5/12 & 6/12	6/13	change	2012	2013	change	2012	2013	change	
Industry Total	44,888	30,751	-31.5%	105,900	99,952	-5.6%				
Cars	20,403	13,754	-32.6%	44,327	41,782	-5.7%	41.9	41.8	-0.1	
Light Trucks	24,485	16,997	-30.6%	61,573	58,170	-5.5%	58.1	58.2	0.1	
Japanese Brands	13,949	10,868	-22.1%	32,321	32,866	1.7%	30.5	32.9	2.4	
Toyota	5,406	4,308	-20.3%	12,091	12,577	4.0%	11.4	12.6	1.2	
Honda	3,511	3,167	-9.8%	8,559	8,932	4.4%	8.1	8.9	0.8	
Nissan	2,326	1,491	-35.9%	5,545	4,943	-10.9%	5.2	4.9	-0.3	
Other	2,706	1,902	-29.7%	6,126	6,414	4.7%	5.8	6.4	0.6	
Domestic Brands	23,618	15,376	-34.9%	56,758	53,008	-6.6%	53.6	53.0	-0.6	
General Motors	10,360	6,312	-39.1%	24,726	22,505	-9.0%	23.3	22.5	-0.8	
Ford	8,144	5,753	-29.4%	20,324	19,661	-3.3%	19.2	19.7	0.5	
Chrysler	5,114	3,300	-35.5%	11,708	10,831	-7.5%	11.1	10.8	-0.3	
Other	0	11		0	11					
European Brands	3,061	2,305	-24.7%	7,729	6,774	-12.4%	7.3	6.8	-0.5	
Volkswagen	1,531	1,018	-33.5%	3,921	3,174	-19.1%	3.7	3.2	-0.5	
BMW	780	721	-7.6%	1,718	1,768	2.9%	1.6	1.8	0.2	
Mercedes	327	329	0.6%	1,074	1,065	-0.8%	1.0	1.1	0.1	
Other	423	237	-44.0%	1,016	767	-24.5%	1.0	0.8	-0.2	
Korean Brands	4,260	2,202	-48.3%	9,092	7,304	-19.7%	8.6	7.3	-1.3	

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

Data Source: AutoCount data from Experian Automotive.

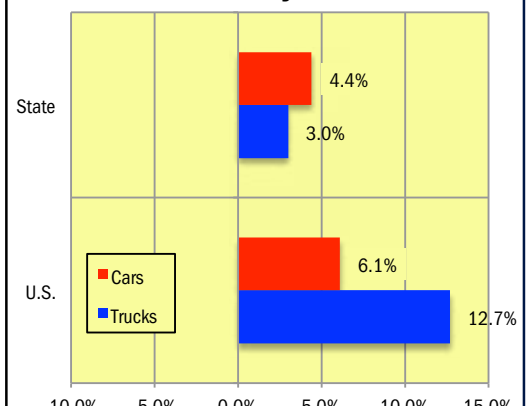
### Percent Change in Three Month Moving Average of New Retail Registrations versus Same Period Year Earlier



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.

Data Source: AutoCount data from Experian Automotive.

### Percent Change in State and U.S. New Retail Light Vehicle Markets YTD '13 thru May vs. YTD '12



The graph above compares the change in new retail car and light truck registrations in both the state and U.S. markets. **Note: percent change is for YTD 2013 thru May vs. YTD 2012. Final U.S. Figures for June 2013 were not available.**

Data Source: AutoCount data from Experian Automotive

### Data Information

All data represents new vehicle retail registrations in Minnesota and excludes fleet and wholesale transactions. Monthly recording of registrations occurs when the data is processed by the DVS. 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. Data Source: AutoCount data from Experian Automotive.

Minnesota New Retail Light Vehicle Registrations					
	Registrations			Market share	
	YTD '12	YTD '13	% change	YTD '12	YTD '13
	thru June	thru June		thru June	thru June
TOTAL	105,900	99,952	-6%		
Acura	621	688	11%	0.6%	0.7%
Audi	726	691	-5%	0.7%	0.7%
BMW	1,333	1,390	4%	1.3%	1.4%
Buick	1,994	2,045	3%	1.9%	2.0%
Cadillac	709	775	9%	0.7%	0.8%
Chevrolet	17,862	15,983	-11%	16.9%	16.0%
Chrysler	2,801	2,031	-27%	2.6%	2.0%
Dodge	3,026	3,512	16%	2.9%	3.5%
Fiat	163	160	-2%	0.2%	0.2%
Ford	19,694	19,059	-3%	18.6%	19.1%
GMC	4,161	3,702	-11%	3.9%	3.7%
Honda	7,938	8,244	4%	7.5%	8.2%
Hyundai	4,145	3,495	-16%	3.9%	3.5%
Infiniti	508	481	-5%	0.5%	0.5%
Jaguar	24	32	33%	0.0%	0.0%
Jeep	3,423	2,681	-22%	3.2%	2.7%
Kia	4,947	3,809	-23%	4.7%	3.8%
Land Rover	212	218	3%	0.2%	0.2%
Lexus	925	1,060	15%	0.9%	1.1%
Lincoln	629	602	-4%	0.6%	0.6%
Mazda	1,833	1,923	5%	1.7%	1.9%
Mercedes	1,064	1,056	-1%	1.0%	1.1%
MINI	385	378	-2%	0.4%	0.4%
Mitsubishi	387	415	7%	0.4%	0.4%
Nissan	5,037	4,462	-11%	4.8%	4.5%
Porsche	90	82	-9%	0.1%	0.1%
Ram	2,458	2,607	6%	2.3%	2.6%
smart	10	9	-10%	0.0%	0.0%
Subaru	3,748	3,938	5%	3.5%	3.9%
Toyota/Scion	11,166	11,517	3%	10.5%	11.5%
Volkswagen	3,187	2,478	-22%	3.0%	2.5%
Volvo	457	266	-42%	0.4%	0.3%
Other	237	163	-31%	0.2%	0.2%

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

Data Source: AutoCount data from Experian Automotive.

**WHO ARE MY TOP COMPETITORS? -BY MARKET AREA-**

**WHAT NEW AND USED CARS SELL WELL IN MY MARKETS?**

**ANSWERS DRIVE RESULTS.**

You need insights into your marketplace to make the best decisions to maximize profits. The AutoCount® Dealer Report analyzes full details on new and used competitive dealer market share, down to specific areas you define. You bring the questions. We'll bring the answers.

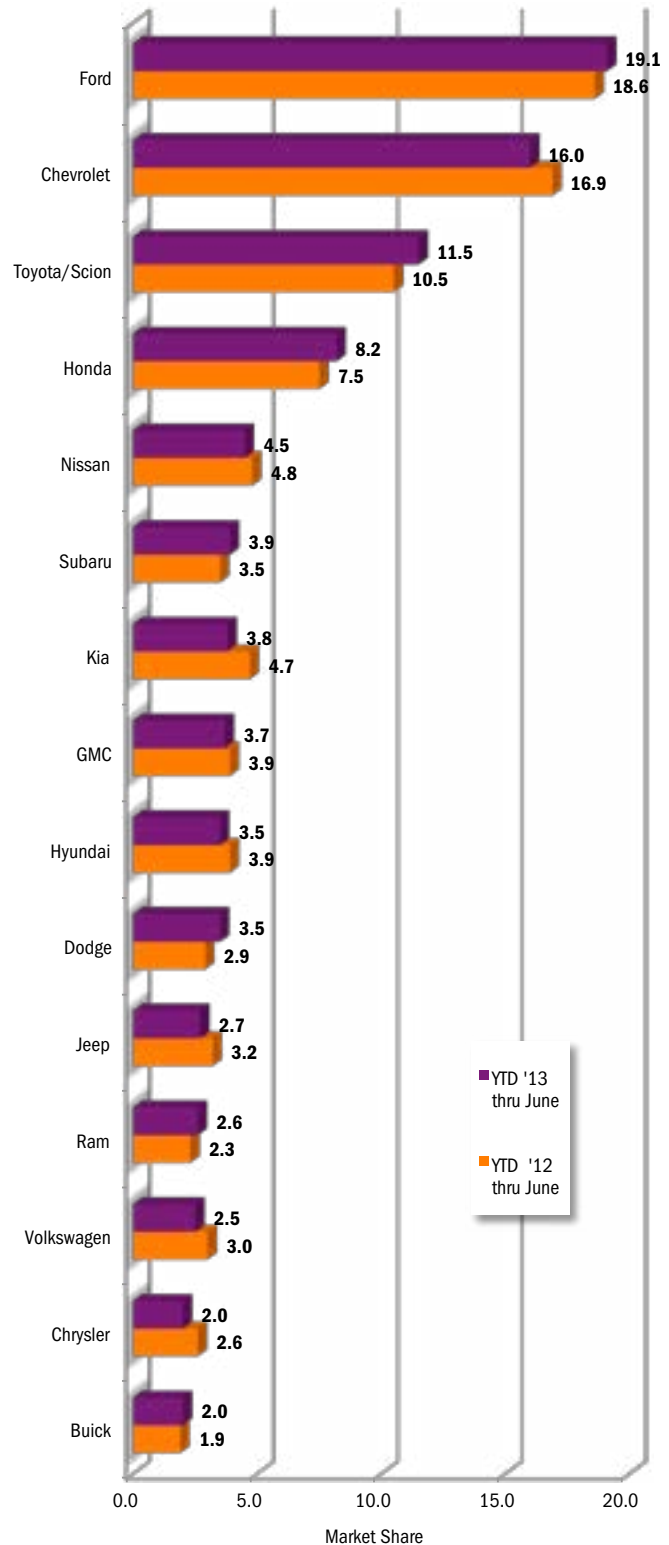
Experian Automotive

Experian Automotive is the data provider for Auto Outlook.

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State Market Share for Top 15 Selling Brands  
YTD '13 thru June vs. YTD '12



Data Source: AutoCount data from Experian Automotive.

## Collision and Service Update

# MADA

## Collision & Service Council

*A Clear Voice for Dealership Collision and Service Centers*

Over 100 participants filled the room at the Aug 1 event featuring a demonstration and Q&A by George Avery of State Farm and Dale Sailer, PartsTrader, LLC.

The program was sponsored by MADA Collision & Service Council to give members an opportunity to hear directly about the parts procurement program and ask questions that many dealers, suppliers, distributors and manufacturers have about this program.

The speakers described their involvement with the PartsTrader program from the side of the insurer and the perspective of the software developer. The internet-based program is not yet launched in Minnesota. However, it is clear State Farm intends to make this a national program.

**...just over a third of attendees reported that their opinion of the PartsTrader program improved.**

A follow-up survey found that 95% who attended the event thought the information was useful for their business. Also, just over a third of attendees reported that their opinion of the PartsTrader program improved after listening to the presentation, while the rest of the crowd remains skeptical.



## Insurance News (cont. from pg. 3)

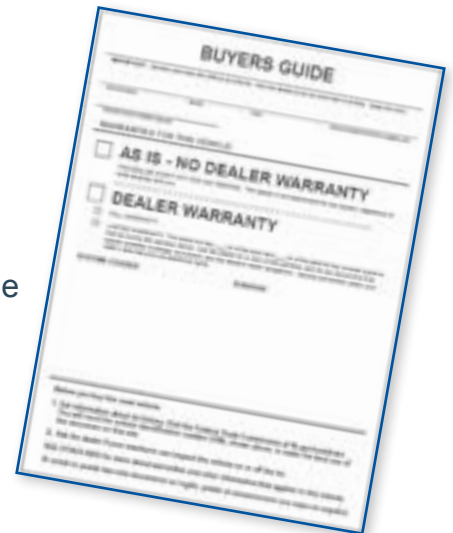
support, day-to-day administrative assistance, and answers to dealers' and their employees' questions.

The MADA Insurance, Inc. Board of Directors is watching the development of **MNsure** with interest. Over the past few decades, the Board has managed the program and made changes as needed to meet the needs of our dealers.

## FAQ

**Q:** We heard that the Buyers Guide Used Vehicle Window Label form is going to change. Do I need to worry about working our forms supply down?

**A:** Probably not yet. The Federal Trade Commission has proposed changes to the Window Label designed to encourage consumers to seek vehicle history information and directing consumers to an FTC website for more information about vehicle histories. The proposed revision also places checkboxes on the back of the Buyers Guide where dealers will indicate whether a manufacturer's warranty still applies, if the vehicle has a manufacturer's certified used car warranty or if some other used vehicle warranty applies.



The final rule has not yet been published. MADA expects an effective date no sooner than next year.



Minnesota Automobile Dealers Association

### 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  
Midwest Family Mutual

**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)

## Member News

*Dan Welle's GM & Chrysler* celebrated 50 years in the Sauk Centre community with a Customer Appreciation Day. Congratulations to the Welle family and employees.

*Kemna-Asa Auto Plaza* celebrated their newly remodeled facility in Jackson with an open house.

*Aitkin Motor Company* will hold a 75th Anniversary Open House in August. Seventy-five years in business is an outstanding accomplishment! Best Wishes.

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

## Visible Customer Update

# Do you know if you have good SEO?

Search Engine Optimization (SEO) is the process of enhancing your dealership's online presence to improve the ranking (or placement) of your web page(s) in search results by "organic" (not paid) efforts.



In general, the earlier (or higher ranked on a page), and more frequently your site appears, the more likely consumers will visit your website. But how do you know if the SEO company you have partnered with is providing value? Here are a few tips for picking an SEO company.

- 1. No Company Can Guarantee Top Placement in Search Engines** If they promise you placement, be careful! Be sure you discuss the keyword strategy. Have them walk you through the strategy they will use for building your keyword plan and work with them! Don't be fooled - make them explain the research they did, the plan and how they will address keywords that are actually searched for.
- 2. Ask Your SEO Company To Review Your Complete Electronic Marketing Plan** Most SEO vendors should ask you about all your online efforts, including your paid search strategy, inventory marketing, social and reputation management and more.
- 3. Educate yourself** The more you know, the less likely that unscrupulous vendors can take advantage of you.



The Certified Title & Registration Program	Class Options	Circle Preferred Date	Location
	<b>Sales Tax</b> 9:00 a.m. - 10:00 a.m. \$99	Sep. 10, 2013 or Nov. 12, 2013 or Jan. 14, 2014	<b>Doubletree by Hilton - Park Place</b>  1500 Park Place Blvd Minneapolis, MN 55416 651-789-2950  Registration includes lunch, sponsored by CVR
	<b>New to Fleet</b> 10:30 a.m. - 12:30 p.m. \$99	Sep. 10, 2013 or Nov. 12, 2013 or Jan. 14, 2014	
	<b>Minnesota Titles and Transfers</b> 1:00 p.m. - 3:00 p.m. \$99	Sep. 10, 2013 or Nov. 12, 2013 or Jan. 14, 2014	

Title Basics	Class Options	Circle Preferred Date	Location
	<b>Title Basics –Duluth</b> 1:00 p.m. - 4:00 p.m. \$199	Sep. 12, 2013	<b>Country Inn &amp; Suites</b> 4257 Haines Road Duluth, MN
	<b>Title Basics – Minneapolis</b> 1:00 p.m. - 4:00 p.m. \$199	Sep. 18, 2013	<b>Doubletree by Hilton - Park Place</b> 1500 Park Place Blvd Minneapolis, MN 55416 651-789-2950

Best Practices in Fixed Operations	Class Options	Circle Preferred Date	Location
	<b>Estimating Best Practices</b> 7:30 a.m. – 12:00 noon \$149/person Council members \$199/person non-members \$50 discount to attend both sessions	Oct. 8, 2013	<b>Doubletree by Hilton - Park Place</b> 1500 Park Place Blvd Minneapolis, MN 55416 651-789-2950
	<b>Sales &amp; Marketing Best Practices</b> 12:30 p.m. – 5:00 p.m. \$149/person Council members \$199/person non-members \$50 discount to attend both sessions	Oct. 8, 2013	

Name \_\_\_\_\_

Name \_\_\_\_\_

Dealership \_\_\_\_\_

Phone \_\_\_\_\_ E-mail \_\_\_\_\_