

Monthly Bulletin

Chairman's Corner

Last week, CNCDA's CALIBRATE campaign moved into its second phase. This time, CNCDA isn't just engaging with legislators and CARB board members. We are now educating the public with new messaging via social and digital ads, billboards, videos, and more. Check out our CALIBRATE phase two campaign here.



Here's where you can help: CNCDA will be looking for members to share placements via dealership signage, billboards, digital ads, etc. to spread the CALIBRATE message up and down the state. **Contact Kenton Stanhope**, Director of Government Affairs, if you want to help!

In good news, our coalition is growing at a rapid pace. We now have over 50 organizations and groups supporting our effort. Local chambers of commerce, community groups, and social justice and minority groups (among others) are all supporting our effort to pause ACCII.

<u>Most importantly, Californians are on our side.</u> Our newest statewide polling shows that most residents believe the state's EV requirements are moving too fast and that a pause just makes sense.

Our staff continues to work on modernizing the Document Processing Charge with SB 791. Dealers need to be fairly compensated for the processes and compliance required by the state for new sales. Our DPC is the lowest in the nation (with the most significant number of manhours and requirements to shoulder). An adjustment is way past due for our dealers.

Lastly, we maintain our position on SB 766. The bill is retaliatory and specifically anti-dealer. It puts dealers at risk for frivolous lawsuits by trial attorneys under a proposed PAGA-type loophole. The bill says it is reforming and simplifying the carbuying process. We see through these pretenses, and we will not let it become law without a fight.

As many of you know, this legislative session is proving to be a challenging one. However, we are in the trenches, and we will not back down. Thank you all for your continued support; when we work together, we can secure a brighter future for our industry.

Best regards,

Robb Hernandez, Chairman, CNCDA Camino Real Chevrolet

IN THIS BULLETIN:

Call to Action	2
NMVB-Led Coalition Promotes Takata Airbag Replacement	2
Reminder: Don't Sell GAP Waiver to Service Members	3
CNCDA Buzzwords	3
VW Scout Lawsuit Update	4
NMVB ZEV Expert Pledge Invitation	4
Scammers Getting Sharper	4
BAR Advisory Group Quarterly Meeting Recap	5
New Contact Info for DMV Occupational Licensing	6
New Procedure to Notify DMV of Salesperson Change	6
Try to Reduce Payroll Liability	7
Spring Career Day Wrap Up	9
Sponsorship Opportunities	10
The CNCDA Showroom	10
Sharing Good News	10
Upcoming Events	11
Thank You Sponsors	12

Legislative Update and Call to Action

By: Kenton Stanhope, Director of Government Affairs

The beast of a legislative session continues in 2025. Those who attended Dealer Day in March know the many critical issues we are fighting this year, namely SB 791 and SB 766. Below is an update on CNCDA's top priority bills:

SB 791 (Cortese) – Document Processing Charge (DPC) Increase. This bill is sponsored by CNCDA and is our number one legislative priority. It would eliminate the current DPC (\$85) and replace it with a 1% charge of the total price of the vehicle. Notably though, SB 791 will include that the DPC be capped at \$500 for those purchasing a vehicle at a price point of \$50,000 or higher. Thanks to your advocacy at Dealer Day and the hard work from the CNCDA lobby team, SB 791 has passed its first committee, Senate Transportation. It's now headed to the Senate floor for a full vote in mid to late May.



SB 766 (Allen) – PAGA for Car Dealerships. This bill grafts the complex proposed federal rule (the FTC's CARS Rule) onto the California Civil Code and allows plaintiffs' attorneys to turn any violation (however minor) into a potential lawsuit. SB 766 does not align with existing California consumer protections, such as those governing vehicle sales and lease contracts, vehicle advertisements, and foreign language translations. As a result, this bill would force dealers to provide duplicative and confusing communications to customers, increasing its length and customer frustration. Simply put, the provisions in SB 766 are ambiguous, unworkable and will expose your businesses to litigation, hence, PAGA for car dealerships. This bill has passed two committees, Senate Transportation and Senate Judiciary, where some minor improvements were made but it remains our association's top bill to stop this session. SB 766 is currently in Senate Appropriations and could head to the Senate floor for full vote in late May.

Prepare to engage your Senators. As both SB 791 and SB 766 move towards a full vote for the Senate, please be on the lookout for "Call to Action" emails from CNCDA. The call to action will include instructions to make calls and send form letters to the Senator who represents your dealership. **Your engagement will be crucial to advancing SB 791 and stopping SB 766.**

Want to make an even bigger impact with California's legislators? Sign up your dealership team for our advocacy alerts! By signing up for VoterVoice, they will stay informed about the latest legislative developments directly impacting franchised new car and truck dealers. Your team will get timely updates and action alerts delivered to their inbox, empowering them to make their voice heard on the issues that matter most. Encourage them to help our progress and drive meaningful change. Please share the link today: wotervoice.net/CNCDA/register.

New Motor Vehicle Board-Led Coalition Successfully Promotes Takata Airbag Replacement

By: Anthony Bento, Chief Legal Officer

According to a recent report issued by CARFAX, California led the nation in Takata airbag replacements, with over 100,000 completed during the last year. Access the report here: www.carfax.com/press/takata-apr-2025

This report follows a coordinated outreach effort led by California's New Motor Vehicle Board (NMVB). In May 2024, the National Safety Council, CalSTA, NMVB, CNCDA, and the Office of Traffic Safety (OTS) held news conferences announcing state and federal efforts to fix open Takata Airbag recalls.



CNCDA thanks the New Motor Vehicle Board for drawing attention to this important issue. Their work helps demonstrate how franchised new car dealers stand ready to complete important safety recalls for customers throughout our diverse state.

Reminder - Don't Sell GAP Waiver to Service Members

By: Anthony Bento, Chief Legal Officer

A reminder to dealers: Do not sell GAP waiver to active duty service members. If you do, you may be stuck holding a contract with no enforceable security interest on the vehicle, meaning you can't repossess the vehicle.

As you may remember, in 2017, the Department of Defense (DOD) issued guidance that prohibited dealers from selling GAP waiver to active duty service members. During this time, CNCDA advised dealers to screen customers for their active-duty status and, if they were active duty, refrain from selling GAP waiver. One method of screening customers is to use the DOD's Military Lending Act website, accessible here.



While the DOD rescinded its guidance in 2020, the California legislature passed a law in 2022 that has the same practical impact. SB 1311 (2022) imposed several new obligations on businesses related to service members. Most importantly for dealers, SB 1311 voids a security interest in a motor vehicle if the vehicle is purchased by a "covered member" under the federal Military Lending Act (i.e., an active-duty member of the armed forces or reserves) and the loan also funds a "credit insurance product or credit-related ancillary product."

The terms "credit insurance product" and "credit-related ancillary product" are left undefined by SB 1311. However, CNCDA and other industry groups view this language as a prohibition on the inclusion of a GAP waiver in contracts involving active-duty service members.

With the passage of SB 1311, California dealers needed to resume the practice of screening borrowers for their status as active duty service members or reservists. If a borrower is an active duty service member or reservist, dealers should refrain from offering a GAP waiver to them.

Although we included SB 1311 in our 2022 Legislative Summary and discussed it during New Laws, it was overshadowed by SB 2311, which was passed during the same year. SB 2311 adopted a variety of restrictions on the sale of GAP waiver that applied to all borrowers, not just service members. These restrictions included limits on the sale and price of GAP waiver, automatic refund requirements, and additional consumer disclosures.

If you're interested in learning more about SB 1311 or SB 2311, check our **2022 Legislative Summary here.** You can also call our legal hotline at 916-441-2599.



CNCDA BUZZWORDS

"Regardless of how adamant Volkswagen is that Scout Motors can circumvent their dealers, California law remains... Bypassing their dealers is not only illegal in California, but frankly, it's irresponsible. VW dealers have been demanding VW to provide trucks and SUVs—electric and non-electric—to offer their customers and for Volkswagen to save those models for their own profit is just not right," added Maas.

-Brian Maas, California New Car Dealers Association President <u>California New Car Dealers Association sues Scout Motors and VW,</u> <u>Car Dealership Guy News, 4/24/25</u>

CNCDA Files Lawsuit Against Volkswagen and Scout Motors for Violation of California Franchise Laws

By: CNCDA Staff



CNCDA has filed a lawsuit in San Diego County Superior Court against Volkswagen and its affiliate, Scout Motors, for deliberately violating California's franchise laws. The lawsuit asserts that Volkswagen is illegally competing with its dealer partners through its affiliate, Scout Motors.

Volkswagen and Scout Motors are operating in direct violation of California Assembly Bill 473, a 2023 law that prohibits automakers from using affiliated brands to compete with their own franchised dealers. Despite admitting to legislative leaders that AB 473 would cut off its ability to sell directly to consumers, Volkswagen, via Scout Motors, has taken deposits and is marketing Scout-branded vehicles to California consumers.

The lawsuit alleges unfair competition and false advertising, and CNCDA is seeking to immediately stop Scout Motors' illegal direct sales, as well as civil penalties that could exceed \$35 million. Read the complaint here.

New Motor Vehicle Board ZEV Expert Pledge Invitation

By: The New Motor Vehicle Board (NMVB)

We invite you to take action. The <u>California New Motor Vehicle</u>
<u>Board</u> supports the ZEV transition in California by encouraging the use of industry best practices in motor vehicle sales activities. We are launching our Electric Vehicle (EV) Expert Pledge for California Dealerships and invite you to become a recognized leader in the industry.

By taking the pledge, you commit to having one or more dealership staff trained as an EV Expert and local resource for your customers. Take the pledge here!

Questions? Contact admin@nmvb.ca.gov.





Scammers Getting Sharper

By: Les Swizer, Legal & Regulatory Affairs Counsel

From time to time, CNCDA is alerted to various scams being perpetrated on dealers. We were recently alerted to more advanced efforts to scam dealership operations. A dealer shared the invoice pictured here, reporting that they received two invoices, with the dealer's controller and GM correctly named for each location, giving the invoice the appearance of validity. Please take a look and be vigilant; they are getting better and better.

If you have any questions, have received one of these, or wish to discuss further, please do not hesitate to reach out via CNCDA's Legal Hotline at **(916) 441–2599**.

Bureau of Automotive Repair Advisory Group Quarterly Meeting Recap

By: Les Swizer, Legal & Regulatory Affairs Counsel

The Bureau of Automotive Repair (BAR) conducts a quarterly advisory group meeting bringing together representatives from various member associations and organizations representing automotive repair dealers.

These public meetings are generally held to promote collaboration and share ideas. The most recent meeting, held on April 24, 2025, covered a range of topics, summarized below:

Legislative and Regulatory Update

SB 615 deals with end-of-life and defective EV batteries and their handling. A couple of years ago, CNCDA staff was in the workgroup for the development of this bill (along with many others). The bill remains in the version that the workgroup concluded with during their extensive span of meetings, but CNCDA will keep an eye out for any problematic amendments.



BAR staff is working to submit to California Business, Consumer Services, and Housing (BCSH) the storage fees regulation (covered in the CNCDA July 2024 Bulletin) for review.

The comment period for Mobile Repair Regulations ends May 12.

Pre-OBD II vehicle testing

BAR is considering subcontracting shops to perform OBD II testing on a small (approx. 14%) portion of California's entire vehicle fleet (late 90s vehicles mostly). However, in light of other pending legislation potentially installing a rolling 30-year or "classic" designation exemption, the need may dissipate.

Roadside Emissions Survey Program

BAR staff discussed the anonymous roadside smog program to measure the success of the Smog Check Program generally.

Online Change Form Demo

BAR staff walked through three functions of the online portal:

- Adding and removing educational certifications
- Making changes to the business (e.g., address, phone, etc. but not to change individuals)
- Change of individuals with access or authority on the account or change of corporate officers

The process seemed simple, had quick response – the addition or removal of educational certificates was instant – and most items requiring licensing review had an estimated lead time of 3-5 days.

Complaint Case Study

BAR staff discussed the importance of acting as a neutral, third-party fact finder and outlined a specific (de-identified) case that highlighted the importance of the storage fee regulations.

Enforcement Statistics

Complaint volume is up in 2024-2025 versus 2023-2024, but trending down early this year.

Performance metrics indicate the lead times between the filing of the complaint, conducting the investigation, to case closing are quicker year over year.

CNCDA continues to participate in this group to ensure dealers are represented in all issues affecting the Service Drive. If you have any questions about the above or wish to discuss, please call CNCDA's Legal Hotline at (916) 441-2599.

New Contact Information for DMV Occupational Licensing

By: Les Swizer, Legal & Regulatory Affairs Counsel



Since the inception of the online portal for Occupational Licensing (OL) at the California Department of Motor Vehicles (DMV), CNCDA has been engaging with dealers and leadership at DMV. Dealers communicated their early and persistent pain points with the new system, and CNCDA worked diligently to relay that message to DMV while also helping to facilitate communication between DMV and dealers.

After many months of discussions with DMV OL staff, CNCDA met with leadership at DMV and at the New Motor Vehicle Board (NMVB). CNCDA staff presented various ongoing issues, asking for, among other improvements, a dedicated phone line to the OL department staff. Reports from dealers indicated that once OL staff became involved, any issues were quickly resolved—there just wasn't a good way to contact them.

Leadership at the NMVB was so impacted by this meeting that they included a breakout session during their 50th Anniversary Industry Roundtable this March. Dealers showed up so fervently: there was standing room only at the session. DMV representatives from multiple departments, including OL, were receptive to input from dealers, making copious notes to take back to their executive leaders.

CNCDA is happy to report that after months of discussions, communications, and collaboration, dealers can now contact the DMV OL staff directly at (678) 809-0535.

While this does not address every issue, we believe the ability to contact OL staff directly offers relief to dealers struggling with the growing pains of the online portal.

If you have any questions or wish to discuss further, please call CNCDA's Legal Hotline at (916) 441–2599.

New Procedure to Notify DMV of Salesperson Changes By: Vitu

New procedure to notify DMV of salesperson changes.



Newsflash: DMV no longer accepts the OL 16A.

Whenever a salesperson starts at a dealership — or when they leave — the dealer must notify the DMV. Previously, all you had to do was submit the OL 16A — Salesperson Change of Employment form by mail to Sacramento DMV.

However, the DMV has changed their process and are now rejecting these mailings. The new way to manage employment changes for salespeople is through your dealership's licensee owner or appointed administrator, who can do it online. Simply go to your dealership's Occupational Licensing (OL) dealer account on the DMV website to add or remove the salesperson information accordingly.

The New Steps to Update Salesperson Changes
To get started, your licensee owner or appointed
administrator must log in to your dealership's account on
the DMV OL website.

- 1.Go to the License Actions section
- 2. Next to **Submit Modification or Other Request**, select the **Submit** button
- 3. In the search field that appears, enter **Add or Remove**Employee
- 4. Click the Submit button.

If you have any questions, you can call the Business Licensing Unit at 916-229-3126.

Try to Reduce Payroll Liability- Obtain Meal Period Waivers

By: John Boggs, Fine, Boggs, & Perkins, LLP

Meal Period Requirements Are Nothing New

California has long required employers to provide meal and rest periods to employees whose shifts exceed minimum durations. Historically, failure to provide such meal or rest breaks could not only trigger a claim filed with the Labor Commissioner, but as part of a growing trend to increase employer liability, the requirement to provide meal and rest periods was beefed up by California's enactment of statutory provisions. These established a financial incentive for employers to provide meal and rest periods. Employees denied such breaks were entitled to "one hour of pay



at the employee's regular rate of compensation" per day for each type of violation and even holding executives and owners personally liable. Further, the California Supreme Court clarified that the "regular rate of compensation" required for these meal period premiums required the inclusion of bonus compensation and other items.

With PAGA and the Labor Code's provisions for attorney fees, waiting time penalties and long statute of limitations period, the potential exposure to liability for dealers is immense. The law and best practices require employers to establish, maintain, and enforce policies requiring all affected employees take all entitled meal and rest periods, to document this in policy and in practice, and to ensure that any exceptions are even more clearly documented. If employee time records show late, short, interrupted or missing meal periods, for example, there should be clear documentation in the file to confirm either that the meal period premium was triggered and paid, or that the employee was provided the required period but chose—without influence from the employer—not to take advantage of the period as provided. The Supreme Court recognized this exception at least as to the premium pay requirements.

Meal Periods Can Be Waived, Sometimes

California enacted its own meal and rest period requirements to safeguard "the health, safety, and welfare" of employees. The law guarantees employees a 30-minute, off-duty meal period for employees after five work hours and a second meal period after 10 work hours. Not surprisingly, not all employees felt that this guarantee was to their benefit, with many employees desiring the freedom to leave work at least one half-hour earlier. Consequently, the Labor Code provides that, for shifts between five and six hours, the first meal period "may be waived by mutual consent of both the employer and employee." The second meal period may also be waived "by mutual consent of the employer and the employee," but "only if the first meal period was not waived" and "the total hours worked is no more than 12 hours."

CNCDA has long taken the position that this provision of the Labor Code authorizes dealers to reach agreements with their employees wherein employees agree to prospectively waive all waivable meal periods throughout their employment. Naturally, plaintiffs' lawyers disagreed. Instead, they have argued that prospective waivers are impermissible and a separate meal period waiver, signed by both the employer and the employee, must be obtained for each meal period, each day, to be waived. Of course, this position would be both inconvenient and impractical. So many employers largely ignored the potential waiver savings.

Clarity: Prospective Meal Period Waivers are Enforceable

The Second District Court of Appeal's recent opinion in *La Kimba Bradsbery v. Vicar Operating, Inc.* provides much needed clarity regarding the enforceability of prospective first meal period waivers, confirming our long-term opinion that that such waivers are legal and enforceable. In Kimba Bradsbery, after the plaintiffs began their employment with the defendant employer, the plaintiffs each signed a written meal period waiver that stated the employee (1) confirmed understanding of the entitlement to take an unpaid 30-minute meal break within the first five hours of work; (2); voluntarily waived the right to a meal break when the shift was 6 hours or less; and (3) confirmed understanding that the waiver may be revoked at any time by giving written revocation to a manager. The trial court concluded that California law permits these prospective blanket waivers, and that conclusion was upheld on appeal. The Court of Appeal found that prospective blanket waivers may benefit employees and promote the protection of their interests.

Try to Reduce Payroll Liability-Obtain Meal Period Waivers (Cont.)

By: John Boggs, Fine, Boggs, & Perkins, LLP

In so holding, the Court of Appeal expressly declined to consider whether employers and employees may prospectively waive the second meal period. The Court of Appeal also declined to consider whether employers and employees may orally reach agreement to prospectively waive meal periods. So, while these questions remain unresolved for now, the opinion of the Court of Appeal provides some comfort to California employers and to the benefit of their employees.

CNCDA recommends that dealers consult competent employment counsel if they intend to implement blanket prospective meal period waivers as part of their onboarding process. HR Hotlink has meal period waiver forms available for employers to distribute to employees. These meal periods waivers should serve to help reduce dealer liability in future litigation, preventing employees from seeking meal period premiums for those they have prospectively agreed to waive.

Keep Up on the Changing Landscape through CNCDA

The ever-changing landscape of California's timekeeping and payroll requirements provide a consistent reminder to dealers and other employers of the importance of keeping up on the dynamic regulatory requirements that permeate this area of compliance. CNCDA and its partners track new legislative and regulatory requirements in many other arenas for the purpose of helping employers avoid the snares and pitfalls that await the unwary.



The Association and its employment counsel will continue to follow these developments and will notify dealers of new changes relating to their wage-and-hour obligations. If you have any specific questions regarding the foregoing, we encourage you to contact John Boggs at (650) 712-8908 or at JBoggs@EmployerLawyers.com.

Spring Career Day Wrap Up

By: CNCDA Foundation

Join Us in Making an Impact!



Automotive Technology Career Days are the first step in our Foundation's Automotive Service Career Pathway designed to introduce students to dealership careers. At each event, we partner with dealers, local community colleges, and OEM sponsors to share practical insights with students, outlining the specific roles, career paths, and potential earnings in the automotive industry.

Since January 2025, our Career Day tour has engaged over <u>1,200</u> students from more than <u>80</u> schools across <u>five</u> regions, in collaboration with <u>50+</u> unique dealerships and community colleges. With four more events still on the calendar, we're accelerating even faster to connect your dealership with tomorrow's top talent!

Building on Early Success

Launched in 2023 with 2,000 student interactions, our Career Days have grown exponentially. By year's end, we anticipate:

- 3,000+ student participants statewide will be introduced to automotive careers.
- Engagement at 10 events stretching from Redding to San Diego.
- Partnerships with **75+ dealerships and local colleges** ready to recruit tomorrow's technicians.





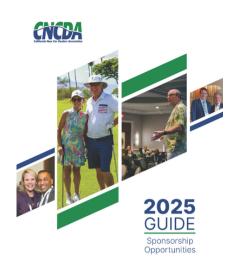
"My students choose their career path at events that get them excited about the future, not in 3rd period Automotive Technology class!" says Omar Sevilla, Automotive Instructor at James Madison High School.

Get Involved!

With **four** exciting Career Days still ahead, now's the perfect time for dealers to step in and inspire the next wave of automotive talent! Whether you're **leading interactive breakout sessions**, connecting with students at a **job-fair** booth, or **fast-tracking hires** through on-site interviews, your dealership can have a real impact.

Every Career Day is an opportunity to turn curiosity into careers, and students into tomorrow's service professionals.

We invite all dealerships, educators, and partners to join us in accelerating these futures by going to www.cncdafoundation.org/career-day



Sponsorship Opportunities

By: Rebecca Matulich, Director of Strategic Partnerships

VENDORS: If you'd like to join us this fall in <u>Kona at the Four Seasons Hualalai for our Annual Convention</u>, become a sponsor today!

Check out all 2025 sponsor options HERE.

Please contact Rebecca Matulich, Director of Events & Partnerships, at rmatulich@cncda.org with questions and to secure your 2025 CNCDA sponsorship today.

A HUGE thank you to the sponsors who have already partnered with CNCDA in 2025!

Cadillac Has Entered The Showroom

By: McKenna Bediamol, Administrative Coordinator

We have a new addition to our Showroom for the month of May... the 2025 Cadillac OPTIQ Sport 1 courtesy of Reliable Cadillac. It's got all the bells and whistles to make your summer trips a breeze! Stop by 1517 L St. in Sacramento to check it out!

Planning an event? We've got the space and your vehicle could be the perfect backdrop. With a flexible layout, FREE WiFi, all-new high-def video wall, and more, The Showroom has everything you need for your next meeting, fundraiser, or reception.

To display your vehicle or host your next meeting, fundraiser, or reception, contact Cathy Mason, Director of Operations, at **(916) 441–2599 ext. 115** or **cmason@cncda.org**.





Sharing Good News

By: McKenna Bediamol, Administrative Coordinator

CNCDA collects and shares our dealers' good news on both our website and across our social media channels. These stories include hosting donation drives, supporting local schools, or sending dealership teams to volunteer with local organizations.

We want to show how our members are more than just car dealers, they are community stewards. Please look at our monthly <u>Sharing Good News Pages</u>. Your dealership may just be one of our featured members!

To share YOUR good news, reach out to McKenna Bediamol, at mbediamol@cncda.org.



UPCOMING 2025 EVENTS











WEBINAR:

F&I COMPLIANCE WEBINAR SERIES NEW DEVELOPMENTS AND CURRENT TRENDS

June 12, 10-11:30 AM

Panelists:

- · Anthony Bento, CNCDA
- · Gary Prudian, Manning Leaver · Tim Robinett, Manning Leaver

REGISTER TODAY!



F&I Compliance Webinar Series: New Developments & Current Trends

June 12. 2025. 10 - 11:30 AM Anthony Bento, CNCDA Gary Prudian, Manning Leaver Tim Robinett, Manning Leaver **Register HERE!**

IN-PERSON EVENTS:



Member Appreciation Dinner

June 25, 2025, 6 - 9 PM Fleming's Prime Steakhouse & Wine Bar 380 K St., San Diego, CA 92101 Please RSVP by June 17, 2025 HERE!



NADA Washington Conference

September 8 - 10, 2025 Washington, D.C.

Reach out to Stacy Barawed, sbarawed@cncda.org to join our California delegation!



SAVE THE DATES: 2025 Annual Convention

September 21 - 24, 2025 The Four Seasons Hualalai Kailua-Kona, Hawai'i

Thank You 2025 Sponsors

























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Thank you for reading!

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