Greater Los Angeles New Car Dealers Association

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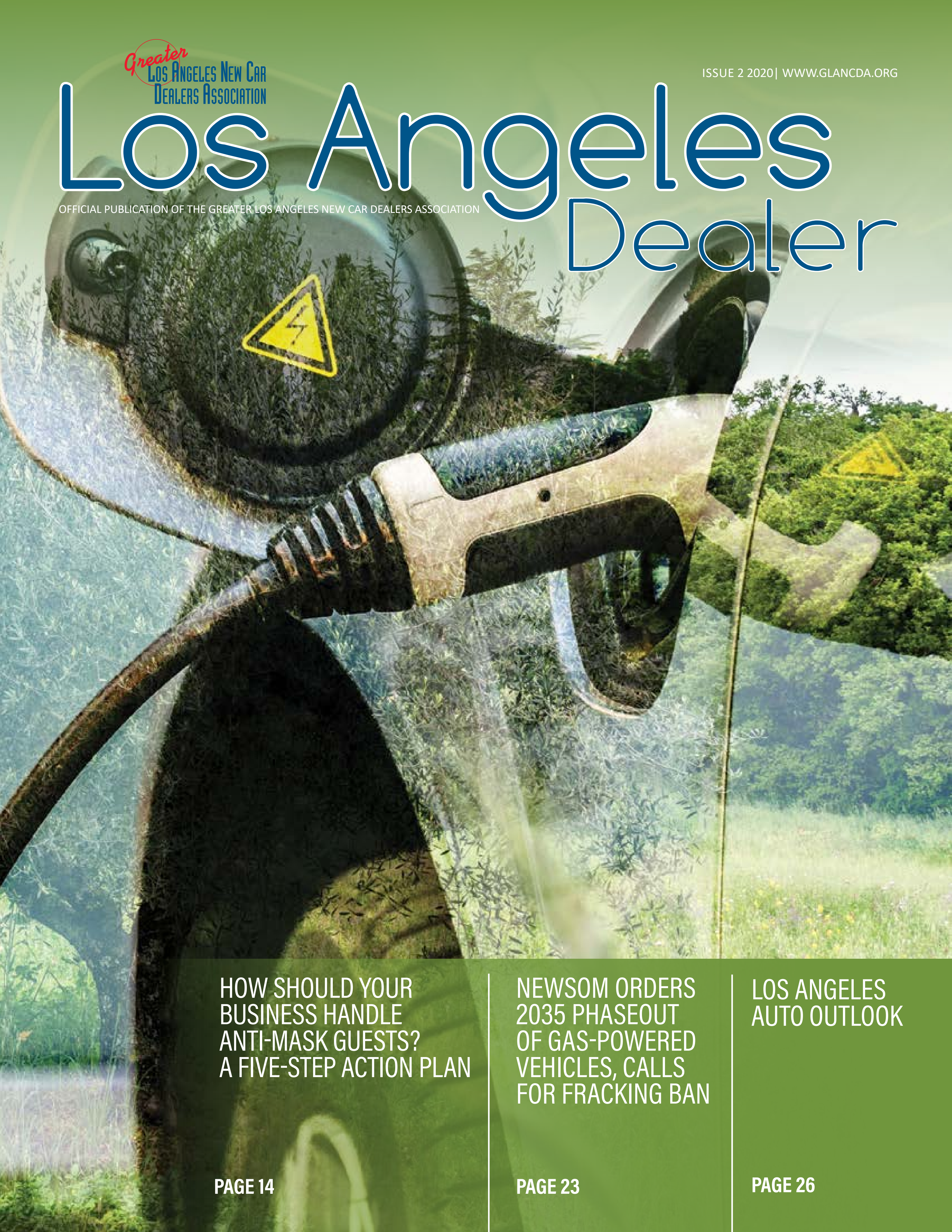
Los Angeles Dealer

OFFICIAL PUBLICATION OF THE GREATER LOS ANGELES NEW CAR DEALERS ASSOCIATION



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FERRUZZO

Ferruzzo & Ferruzzo, LLP began providing legal representation to new car and truck dealers nearly four decades ago. Over the course of that time, one of the central goals of the firm has been to remain rooted in our client relationships. With the strength of over 20 attorneys, we provide a spectrum of legal services to support every aspect of running and owning your new car and/or truck dealership. Each member of our team is available to service the needs of you and your dealership.

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Originally founded in 1907, the Greater Los Angeles New Car Dealers Association provides valuable educational and philanthropic benefits to the Los Angeles Community.

The Association believes that involvement with local charitable organizations makes a positive difference for everyone involved.

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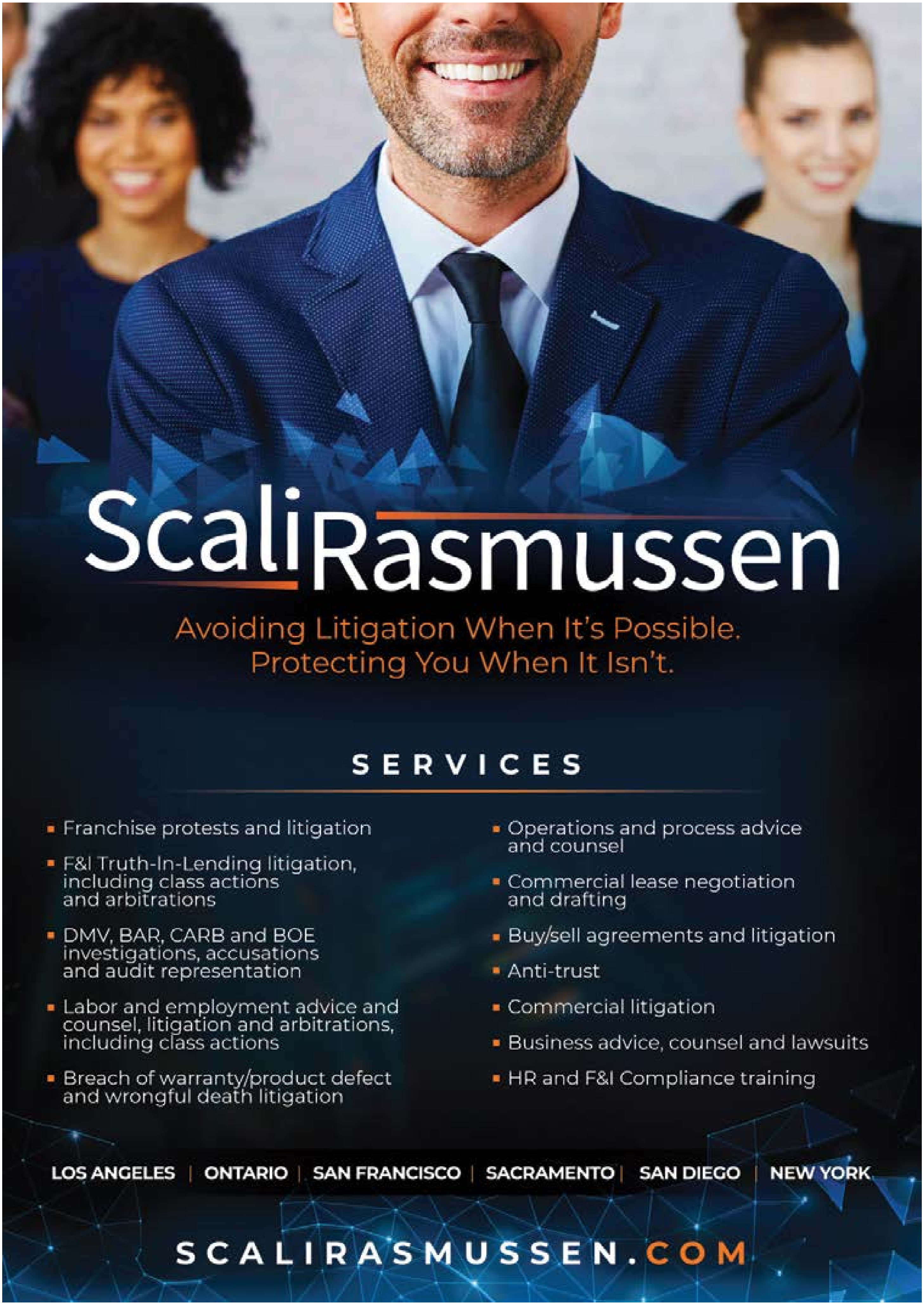
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We hope you enjoy this edition of the LA Dealer Magazine. Keep an eye open for information the association is sending out, and we continue to look forward to the day we can gather together in person!

The board members of GLANCDA hope all our dealer members are navigating these challenging times with success. The association's work for much of this year has been focused on helping keep all Los Angeles County dealerships open and operating under the various protocols in place to remain safe. Dealers are seeing sales and service business climb back from the low levels earlier in the year. We wish you all continued success.

We hope you enjoy this edition of the LA Dealer Magazine. Keep an eye open for information the association is sending out, and we continue to look forward to the day we can gather together in person!

David Ellis

GLANCDA PRESIDENT 2019/2020

Thank You

By Peter Welch, NADA President and CEO
Published on NADA.org July 21, 2020

In early March, fear and panic began gripping America. As the coronavirus quickly spread across our country, the stock market plunged, and businesses scrambled to figure out how to respond. As schools and businesses closed, the U.S. economy went into a tailspin. In the last week of March, new-vehicle sales dropped 59%, and America's new-car and -truck dealers faced severe liquidity concerns not seen since the Great Recession of 2008-09. As a result, many of our members confronted the dreaded prospect of having to lay off valued employees.

Panics are not uncommon in U.S. history, but the speed at which the coronavirus pandemic impacted life in America, and across the globe, was stunning.

Amid these unparalleled events, Congress and the administration acted decisively by enacting a series of broad-based economic stimulus packages. The centerpiece was the CARES Act, which contained a lifeline for dealership employees: the Paycheck Protection Program (PPP).

Different from previous, more diffuse stimulus tools, the PPP delivered needed relief to working men and women through forgivable loans to businesses, contingent on those businesses retaining or rehiring furloughed employees. Most new-car and -truck dealers are local, family owned small businesses that, prior to the pandemic, employed more than 1.1 million people nationwide in good-paying jobs with opportunities for advancement. The PPP was not only a lifesaver, but it also was an extraordinarily successful measure to keep our employees at work in the face of plummeting vehicle sales.

Under the PPP, at least 60% of the loan proceeds must be used for payroll expenses — with the rest going to a set of approved expenses, including mortgage or rent payments, utility bills, etc. For the typical dealership, this 60% threshold will be easy to hit because payroll is historically one of our members' largest expense items. In fact, we expect that many, if not most, dealerships will use 100% of their PPP loans for payroll. The data is already bearing this out. We saw dealership employment bounce back dramatically in May, once PPP loans kicked in.

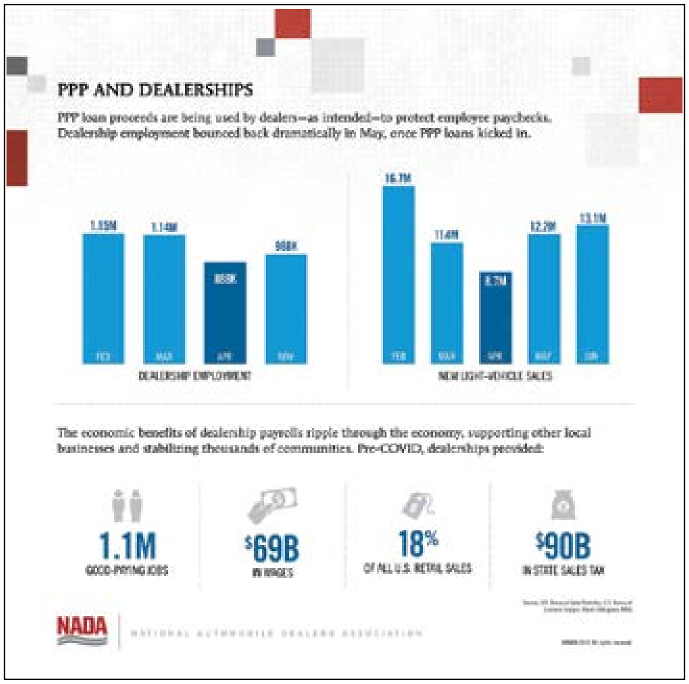
For dealership employees, the PPP kept food on the table and helped pay household bills. It also provided peace of mind.

The economic benefits of dealership payrolls also reverberated broadly through our economy, supporting myriad other local businesses and the people they serve. The loss of dealership payrolls during this time would have dramatically increased the severity of the downturn in communities across the country.

PPP loans have delivered for countless employees across the nation who were the intended beneficiaries. This bipartisan measure may go down in history as one of the most cost-effective stimulus measures ever deployed. In our industry, the PPP helped stabilize local businesses that are essential to national economic recovery. Auto retailing provides more than 1 million good-paying jobs, accounts for 18.8% of all U.S. retail sales, and annually generates over $90 billion in much-needed state sales tax.

The pandemic is not over, and there are still steep hills to climb. But the footing for dealership employees, who provide critical infrastructure services that keep America's cars and trucks on the road, has been made more secure by the PPP.

On behalf of tens of thousands of dealership employees in thousands of communities across America: THANK YOU!



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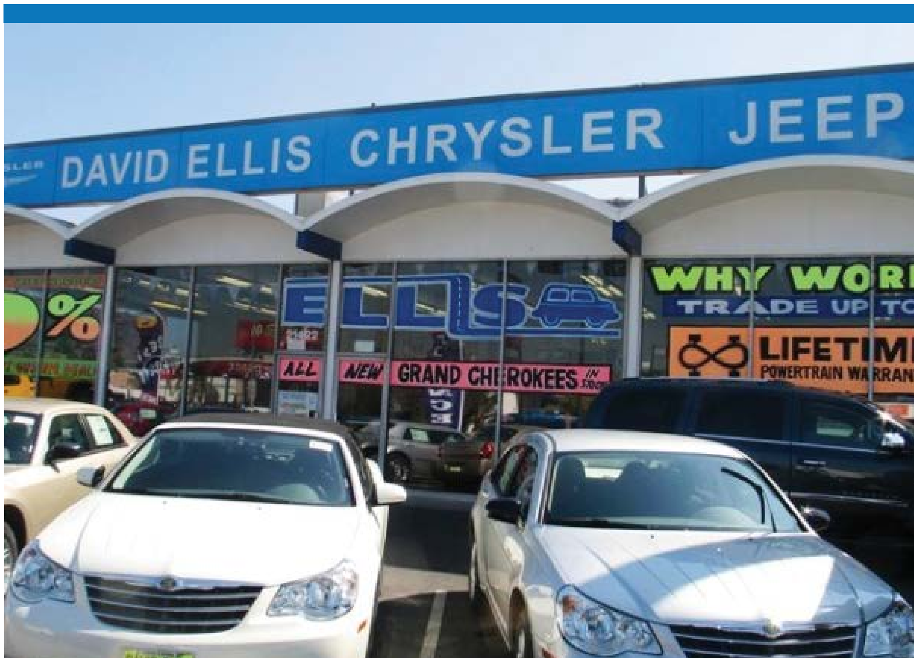
A Check-In With
David Ellis of David Ellis Chrysler Jeep



The current situation is undoubtedly "unprecedented," but I think as difficult as these times are, they are very different from past recessionary periods.

David Ellis has been working in the auto industry since he was 16. He became a sales manager at 22, a general manager at 26, and by 36, he owned his dealership. To say that he has seen it all might be a slight overstatement, but decades in the auto industry gives the advantage of perspective and a steely reserve that lends itself well to steady leadership.

GLANCDA had the opportunity to chat with David about these unprecedented times and his perspective concerning the challenges and opportunities our industry faces as we move through the next several months.

When you look back at the last few decades, what are your thoughts on the current economic times for the dealers? How do they compare to other "hard" times, like the Great Recession?

The current situation is undoubtedly "unprecedented," but I think as difficult as these times are, they are very different from past recessionary periods. During the Great Recession, people weren't buying cars because they didn't have the money. The government rolled out some programs to help — which helped some — but those years were very different. So, yes, I definitely think there are some profound differences between now and the Great Recession, and I believe there's a silver lining in our current cloud.

Right now, for the most part, people have money. They may not be working, but unemployment benefits are available for many, and I truly believe when we can safely resume full business operations, people will be ready to engage again and buy consumer goods — in fact, I think many of us are seeing that people are more interested in owning their own cars. It's a safer way for people to get out of their homes. People are staying closer to home, obviously, and I think local "staycations" will fuel car sales to some extent.

I think, for the most part, people need and want to buy cars. Interest rates are low. As dealers, we've been forced to think creatively about how to do business, so we can keep our employees and our customers safe. I think many of us have figured out that we

➲ **DAVID ELLIS** — *continued on page 9*

➲ **DAVID ELLIS** — *continued from page 8*

can do more with less. We've streamlined our processes because we've had to.

The service departments have been open here in California throughout the pandemic — thanks to our local and state associations. Sales have opened up. And while sales and service have certainly seen a big downswing, there are some things in place that will help us get through this.

What are your thoughts about the auto industry and specifically COVID-19? How do you think this will change the industry?

Well, I think any concerns about ride-sharing services impacting automotive sales have been pushed way down the road. After this, I think people will want to own their cars, autonomous or not.

People adapt; dealers more than most, I think. People have been stuck at home for months, and I think they have gotten used to making purchase decisions online — even for larger purchases, like a car — and they are more comfortable doing so.

I believe that the dealers will need to adapt and sell cars in the way their customers want to buy cars. There will be more cleaning, more distancing when we meet face to face, face masks for the foreseeable future, and possibly a continued use of appointments. But here's the thing, if a customer is going to make an appointment and they show up, I suspect they will be interested in buying the vehicle.

I also think that these past months have shown that the industry has shifted in regard to the skillset necessary to sell cars. For years we were all here, at the dealership, waiting for

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people. Salespeople needed to be able to talk and persuade — today, the skillset is different. Introverts can sell cars, if they can communicate well online. So, I think the industry has opened up. For the better!

What are your thoughts about recovery? How long will it take and what will it look like?

Well, if I had a crystal ball, I think that recovery will happen sooner than later. I suspect that we will be living with this virus for a while, but people are resilient. I think the demand for housing is strong. People have been stuck inside in smaller apartments in metropolitan areas, and I suspect at least some of them will be rethinking their lives and move back to the suburbs. People will buy cars.

I've seen the reports that the recession bell rang in February, but I also think that the economic pause has created a desire for consumers to buy change: houses, new cars, RVs … I think we're going to see an uptick.

We'll see a vaccine and therapies, which will give people much more confidence. But before that, we'll be working through the process of managing the flow of dealerships so businesses can be open. So yes, I believe that COVID-19 has changed us, how could it not? But I don't see gloom and doom as a result. That's not to say this hasn't been nerve-wracking. There have been and continue to be so many unknowns.

How has GLANCDA mobilized to help dealers with COVID-19?

Our industry was viewed as essential. I saw GLANCDA focused on communication — lots of it. They hosted webinars, disseminated information, pulled in legal opinions, and advocated tirelessly on our behalf, here locally and state-wide. Our board is very well-connected with local leaders and I truly believe that their swift and decisive action saved many of our dealers.

To go through something like this on your own would be unimaginable. It was — and continues to be — that big. I don't think we're through this by any means, and we will be seeing the repercussions for many years.

If you could give your colleagues any good news, what would it be?

Again, I would say that this is a change, albeit a big one, but it's also a learning opportunity. I really believe we will come back strong. I think any event that forces us to rethink and take stock is not necessarily bad.

What have you appreciated most through this?

Family, my employees and tireless efforts of our association, GLANCDA.

There's been a lot of comfort in working with family — we're a family business — so I've been able to have family with me, navigating, stepping up and leaning in during this whole thing. I've seen employees step up and take the leadership reigns in ways that made me very proud.

I have been a member of GLANDA for decades. I have served in leadership positions and I have helped this organization grow over the years, but to see the "all hands on deck," when we needed to come together was incredible.

Philanthropy

GLANCDA Supports Glendale Youth Alliance

Greater Los Angeles New Car Dealer Association (GLANCDA) President David Ellis, Glendale Youth Alliance (GYA) Chair Dr. Armina Gharpetian, Executive Director of GYA Karine Grigoryan and GLANCDA Executive Director Bob Smith.

The Glendale Youth Alliance (GYA) sincerely appreciates President David Ellis (Glendale Dodge, Chrysler, Jeep, Ram) and the Greater Los Angeles New Car Dealers Association (GLANCDA) for their continuous support of our programs and the generous donation of $15,000 during these challenging times. GYA is a nonprofit organization that provides comprehensive employment programs for youth ages 14-24. Since 1993, GYA has made a meaningful impact on the lives of over 10,500 youth by preparing them for the future workforce and breaking the cycles of poverty. GYA has over 27 years of experience in providing comprehensive services and pathways to employment to special populations of youth, including at-risk, foster, disabled, parenting, probation and homeless youth. These groups generally have a harder time entering the workforce. GYA provides not only employment opportunities, but also comprehensive services to meet their personal needs. By providing the skills and experience needed to remain above poverty levels, we are investing in a healthy and prosperous future for the youth and our community. Through participation in our programs, many youths have been hired on permanent bases at various departments of the City of Glendale, numerous retail outlets and many other professional organizations. All contributions to our nonprofit organization go into the mission of helping youth in need to reach their highest potential.

Thank you to GLANCDA for believing in GYA and for investing in the youth of our community. It is the help of organizations such as yours that enables us to make an impact on the lives of youth in need.

With Gratitude,
From Everyone at Glendale Youth Alliance (GYA)

GLANCDA Board Member Cheri Fleming (Valencia Acura), Presents Check to Automotive Tech Program at College of the Canyons

On behalf of the School of Applied Technology and the Automotive Tech Program at College of the Canyons, I want to personally thank Cheri Fleming, (Valencia Acura) and the Greater Los Angeles New Car Dealers Association for making this generous donation of $20,000.

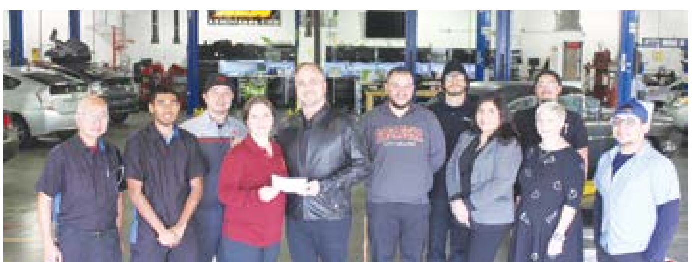
We're proud of the work of our Automotive Technology program and the impact it has on our students and the broader business community, including our local auto dealerships. This program provides a robust offering of certificate and degree programs for our students, ranging from one semester to two years in length. Most importantly, our Automotive Technology students are equipped with hands-on experience and relevant skills, empowering them to support themselves and their families. Through this generous contribution, we will be able to help fund new equipment and training for hybrid vehicles — a growing and important segment of our program's curriculum.

Thank you again for investing in the lives and futures of our students at the College of the Canyons. Your gift will help students achieve their dreams and reach their full potential through education.

Sincerely,

James P. Kneblik, Jr., Director of Development
College of the Canyons Foundation

Pasadena City College Automotive Program Awarded $15,000 Grant



GLANCDA Executive Director Bob Smith, with Wendy Lucko (PCC Automotive Technology instructor) and students

The Greater Los Angeles New Car Dealers Association (GLANCDA) has been supporting the Automotive Program at Pasadena City College since 2019, and recently announced a renewed commitment with a grant of $15,000. GLANCDA board members Peter Hoffman (Sierra Automotive Group, Monrovia), and Pete Smith (Bob Smith Toyota, La Crescenta) were instrumental in getting approval of this award.

The Automotive Technology Program has been providing quality education to students pursuing careers in the automotive industry for decades and was most recently recognized for economic results — receiving a Bronze Star in the Strong Workforce Star Program. The star program measures three goals: a substantial increase in earnings, attainment of a living wage relevant to regional conditions, and work in a field closely matched to the student's field of study. Automotive Technicians graduating from the PCC program have seen an 83% increase in earnings.

To continue graduating highly qualified automotive technicians capable of serving a full range of vehicles, the automotive department must consistently upgrade equipment, replace tools, and build a substantial outreach program to attract new students. Support from the new car dealers makes all this possible.

The Pasadena City College Automotive Department and the PCC Foundation appreciate its partnership with all the Los Angeles area new car dealers. The impact on PCC and our students continues to be profound, and our automotive program would not be the same without their support.

Kind regards,

Dolores I. Ybarra | Development Manager
Pasadena City College Foundation

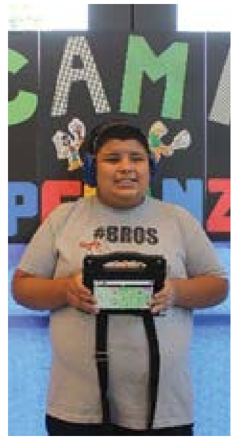
➲ **PHILANTROPY** — *continued on page 13*

 — *continued from page 12*

Glendale Dodge, Chrysler, Jeep (David Ellis) and the Greater Los Angeles New Car Dealers Association (GLANCDA) Support Villa Esperanza Services

Providing services for children and adults with intellectual/developmental disabilities

Villa Tournament 2019 GLANCDA players, Villa school teacher and students. (The photo was taken October 2019, before COVID-19.)



Villa Esperanza Services was awarded a $5,000 donation in support of their programs for children, adults and seniors with autism and other intellectual and developmental disabilities. "We are extremely grateful for the continued investment in our children and adults," shares Kelly White, Villa's CEO.

"GLANCDA's support helps change lives for individuals with special needs. Now more than ever, this support is needed for families. We are proud to contribute to Villa," said David Ellis, GLANCDA board member and owner of Glendale Dodge Chrysler Jeep.

Villa serves individuals of all ages with more than 30 different diagnoses. The wide variety of programs and services helps over 750 individuals and their families each year in Los Angeles and Ventura counties. Since 1961, Villa has been a leader in advocating and advancing services for individuals with special needs. Villa excels in offering progressive and innovative approaches and solutions. The ability to forecast and meet the changing needs of their clients has established Villa as a unique service provider, offering individualized programs and a continuum of care throughout a lifetime. ⊙

How Should Your Business Handle Anti-Mask Guests?

A Five-Step Action Plan

As an increasing number of businesses begin to require face coverings in their facilities — whether as a result of a local legal mandate or in the interest of public safety — there has been a corresponding increase in the number of well-publicized reports of customers and guests reacting in a belligerent, hostile or even violent manner after being asked to comply with mask rules. What should your business do to minimize the chances of such an incident occurring in your workplace, and what should you do if an anti-mask guest disrupts your business? Here is a five-step plan to address this unfortunate part of our new reality.

Step One: Understand That You Are Permitted to Require Employees and Visitors to Wear Cloth Face Coverings or Masks

While many jurisdictions already require that businesses have their employees and any members of the public who enter their facilities wear masks, you may be wondering whether you can require masks if your jurisdiction does not have such a mandate in place. The answer is simple. As a private business, you can decide whether you allow customers or visitors onto your property if they are not wearing a mask. This is similar to the "no shirt, no shoes, no service" policy that you commonly see at businesses.

The Centers for Disease Control and Prevention (CDC) and World Health Organization (WHO) recommend the use of face masks or cloth face coverings as part of a comprehensive plan to help slow the spread of COVID-19. Face masks should be worn when employees or visitors will interact with other people. They are not the only method, but they are one of the strategies recommended by experts to slow the spread of COVID-19.

CDC guidance provides several exemptions indicating who should not wear masks: "Cloth face coverings should not be placed on young children younger than two years of age, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cover without assistance." And although you may have a policy or be subject to a state or local obligation to require facemasks, you may also have an obligation to accommodate the individual if doing so is possible. Taking a few precautions, as outlined below, will allow you to refuse entry to customers without masks.

Step Two: Be Proactive With Your Mask Policy

Providing notice to customers, visitors, and guests of your mask requirement prior to their arrival at your business can help reduce confusion and prevent an uncomfortable situation. Personal service providers (such as spas and salons) and hospitality businesses (such as hotels and restaurants) should provide notice of your policy when confirming reservations. A simple message to visitors and guests is best, not only confirming the reservation but highlighting your efforts to keep them and your staff safe by sharing your social distancing and masks requirements. Posting notices on your public-facing website, apps, and social media platforms to notify visitors of your policy is recommended; you can also use emails or texts as additional communication tools. You should post conspicuous signs in prominent places at your entrances. The notices should include a statement that you have the right to refuse entry or service to anyone not complying with the requirement, particularly where required by local law. Many jurisdictions, in fact, already require such signage.

Consider having a staff member stationed at the entrance to remind guests of your requirement. Many businesses, such

➲ **FIVE-STEP ACTION PLAN** — *continued on page 15*

➲ **FIVE-STEP ACTION PLAN** — *continued from page 14*

as retailers, hotels and restaurants, have taken their policy a step further to offer masks to visitors when they enter. For hotel guests who will be staying for extended periods, have guests sign an acknowledgment of the policy with an agreement to adhere to it. Be specific about consequences — tell guests that they will be asked to put a mask on if they are discovered without one and asked to leave the property if they refuse to comply.

Step Three: Train Your Staff

Your staff will be more likely to effectively enforce your requirement for masks if they understand why you have the requirement. Train your employees on all health and safety measures you are implementing, including the face mask requirement, and the reasons why you are implementing these measures. You should emphasize that these measures are for their protection as well as the protection of others that they interact with.

Educate your employees about your state or local government requirements, so they understand what is required and what is not. Additionally, because both OSHA and the CDC have included masks in their respective recommendations and guidance, requiring masks for both employees and visitors could help avoid an OSHA General Duty Citation or similar challenge by local health and safety authorities.

It is also crucial to train your visitor and customer-facing employees on how to politely request them to wear a mask. For example, consider something like, "Our policy is to require all visitors to wear a mask. May I provide one to you?" If the guest refuses, communicate a clear procedure to your employees for how to address this unfortunate situation (Step Five provides suggestions).

Step Four: Reasonably Accommodate Visitors If They Have a Medical Condition

Visitors may refuse to wear a mask by claiming they have an underlying health condition that prevents them from doing so. Although an individual may have a condition that makes it difficult to wear a mask (e.g., a pulmonary condition), it is highly unlikely the person is carrying a doctor's note to that effect. Further, some state public health orders prohibit you from requiring medical documentation when this type of exemption is claimed. For these reasons, it is best not to require documentation from a visitor to support their request.

Even though you may have a policy or are subject to a state-ordered obligation to require facemasks, you may also have an obligation to accommodate the individual if doing so is possible. Instead of engaging in discussion with the customer or guest about whether they are exempt from your rule, consider whether you can offer an accommodation that would allow them to either access your business or your products/services. Some examples could include curbside service, online shopping for products, or by letting them know they can enter your business at another time. You could also look into other alternatives that would not inhibit breathing, such as requiring your guests to wear a full, clear face shield.

However, it is important to recognize that accommodation recommendations are based on highly fact-specific analyses that need to take into account the medical condition of the guest, the type of business you are conducting, and any specific state or local laws that present additional requirements (or punish offending businesses with stiff monetary penalties). You will want to coordinate with legal counsel for clarity regarding general or specific situations that may arise at your place of business.

What if a visitor doesn't say they have a medical issue but instead presents a card or literature indicating that masks are unsafe? Social or political objections do not allow customers to refuse to wear masks. However, rather than engage in confrontations, it is best to remind a visitor of your rule and offer alternatives for how to access your business.

Step Five: Delicately Deal With Visitors Who Refuse to Comply

If you've taken all of the steps above and you still have a visitor who refuses to comply, what do you do? A clear policy and training are key. Share the exact phrase you want your employees to use when dealing with an anti-mask guest, such as, "If you will not wear the mask per our policy, I have been instructed to contact my manager who will need to discuss this with you." If your frontline employee is unable to coax your guests or customers to comply, you should have a designated manager to handle the removal of a visitor. Do not ask or expect a non-management employee to handle the removal of a noncompliant visitor, guest, or customer. Instead, encourage them to immediately involve a manager.

That manager will need guidance on what your business wants to do if a guest or visitor becomes belligerent. The first step in such an unfortunate situation should be for the manager to meet the guest in a private location, share your policy, and, if applicable, the local/state ordinance or any acknowledgment the guest may have signed upon arrival or at the time of reservation. The manager should inform your visitor that they will be asked to leave if they continue to refuse to comply. If the guest does not cooperate, your manager should escort the individual to the exit and inform them that they are welcome to return if they comply with the policy or when the need for a mask is gone. Where applicable, your manager should offer to reschedule an appointment or reservation.

It is always wise for your manager to avoid raising their voice and to refrain from physical contact. If the situation escalates, your manager should know to call on your own security personnel or local authorities in the same manner you would handle a trespassing situation. Regardless of how the situation concludes, your manager should immediately document the incident in objective, non-emotional terms. They should be instructed to provide the documentation to key personnel (human resources, legal, etc.) as soon as possible, and your business should retain the report in the event you are required to later demonstrate what happened.

Conclusion

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Alert System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney or any member of our Post-Pandemic Strategy Group Roster. You can also review our FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers and our FP Resource Center For Employers. ⊙

EEOC Clarifies What Employers Can (and Can't) Ask Employees During the Pandemic

By Colleen M. McCarthy, Ferruzo & Ferruzo

Last week the U.S. Equal Employment Opportunity Commission (EEOC) issued further guidance to employers on what can be asked of employees during the pandemic. Caught between trying to make the worksite a safe place while not making inquiries that might violate the law, employers have to tread carefully. The EEOC has clarified that employers can go further during the pandemic to protect the health and safety of their employees. Below is an excerpt from recent guidance offered by the EEOC to help employers continue to navigate the balance between employee safety and privacy.

A.8. May employers ask all employees physically entering the workplace if they have been diagnosed with or tested for COVID-19?

Yes. Employers may ask all employees who will be physically entering the workplace if they have COVID-19 or symptoms associated with COVID-19, and ask if they have been tested for COVID-19. An employer may exclude those with COVID-19, or symptoms associated with COVID-19, from the workplace because, as EEOC has stated, their presence would pose a direct threat to the health or safety of others. However, for those employees who are teleworking and are not physically interacting with coworkers or others (for example, customers), the employer would generally not be permitted to ask these questions.

A.9. May a manager ask only one employee — as opposed to asking all employees — questions designed to determine if they have COVID-19, or require that this employee alone have their temperature taken or undergo other screening or testing?

If an employer wishes to ask only a particular employee to answer such questions or to have her temperature taken or undergo other screening or testing, the ADA requires the employer to have a reasonable belief based on objective evidence that this person might have the disease. So, the employer needs to consider why it wishes to take these actions regarding this particular employee, such as displaying COVID-19 symptoms. In addition, the ADA does not interfere with employers following recommendations by the CDC or other public health authorities

The employer may be able to provide information or reassurance that they are taking these steps to ensure the safety of everyone in the workplace and that these steps are consistent with health screening recommendations from the CDC. Sometimes, employees are reluctant to provide medical information because they fear an employer may widely spread such personal medical information throughout the workplace.

regarding whether, when, and for whom testing or additional screening is appropriate.

A.10. May an employer ask an employee who is physically coming into the workplace whether they have family members who have COVID-19 or symptoms associated with COVID-19?

No. The Genetic Information Nondiscrimination Act (GINA) prohibits employers from asking employees medical questions about family members. GINA, however, does not prohibit an employer from asking employees whether they have had contact with anyone diagnosed with COVID-19 or who may have symptoms associated with the disease. Moreover, from a public health perspective, only asking an employee about their contact with family members would unnecessarily limit the information obtained about an employee's potential exposure to COVID-19.

A.11. What may an employer do under the ADA if an employee refuses to permit the employer to take his temperature or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19?

Under the circumstances existing currently, the ADA allows an employer to bar an employee from physical presence in the workplace if he refuses to have his temperature taken or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19. To gain the cooperation of employees, however, employers may wish to ask the reasons for the employee's refusal. The employer may be able to provide information or reassurance that they are taking these steps to ensure the safety of everyone in the workplace and that these steps are consistent with health screening recommendations from the CDC. Sometimes, employees are reluctant to provide medical information because they fear an employer may widely spread such personal medical information throughout the workplace. The ADA prohibits such broad disclosures. Alternatively, if an employee requests reasonable accommodation with respect to screening, the usual accommodation process should be followed.

A.12. During the COVID-19 pandemic, may an employer request information from employees who work on-site, whether regularly or occasionally, who report feeling ill or call in sick?

Due to the COVID-19 pandemic, at this time, employers may ask employees who work on-site, whether regularly or occasionally, and report feeling ill or call in sick, questions about their symptoms as part of workplace screening for COVID-19.

A.13. May an employer ask an employee why he or she has been absent from work?

Yes. Asking why an individual did not report to work is not a disability-related inquiry. An employer is always entitled to know why an employee has not reported for work.

EEOC CLARIFIES — *continued on page 19*

If possible, providing interim accommodations might be appropriate while an employer discusses a request with the employee or is waiting for additional information.

➲ **EEOC CLARIFIES** — *continued from page 18*

A.14. When an employee returns from travel during a pandemic, must an employer wait until the employee develops COVID-19 symptoms to ask questions about where they have traveled?

No. Questions about where a person traveled would not be disability-related inquiries. If the CDC or state or local public health officials recommend that people who visit specified locations remain at home for a certain period, an employer may ask whether employees are returning from these locations, even if the travel was personal.

B.7. An employer knows that an employee is teleworking because the person has COVID-19 or symptoms associated with the disease and that he is in self-quarantine. May the employer tell staff that this particular employee is teleworking without saying why?

Yes. If staff need to know how to contact the employee and that the employee is working even if not present in the workplace, then disclosure that the employee is teleworking without saying why is permissible. If the employee was on leave rather than teleworking because he has COVID-19 or symptoms associated with the disease or any other medical condition, then an employer cannot disclose the reason for the leave, just the fact that the individual is on leave.

D.14. When an employer requires some or all of its employees to telework because of COVID-19 or government officials require employers to shut down their facilities and have workers telework, is the employer required to provide a teleworking employee with the same reasonable accommodations for disability under the ADA or the Rehabilitation Act that it provides to this individual in the workplace?

If such a request is made, the employer and employee should discuss what the employee needs and why, and whether the same or a different accommodation could suffice in the home setting. For example, an employee may already have certain things in their home to enable them to do their job so that they do not need to have all of the accommodations that are provided in the workplace.

Also, the undue hardship considerations might be different when evaluating a request for accommodation when teleworking rather than working in the workplace. A reasonable accommodation that is feasible and does not pose an undue hardship in the workplace might pose one when considering circumstances, such as the place where it is needed and the reason for telework. For example, the fact that the period of telework may be of a temporary or unknown duration may render certain accommodations either not feasible or an undue hardship. There may also be constraints on the normal availability of items or on the ability of an employer to conduct a necessary assessment.

As a practical matter, and in light of the circumstances that led to the need for telework, employers and employees should both be creative and flexible about what can be done when an employee needs a reasonable accommodation for telework at home. If possible, providing interim accommodations might be appropriate while an employer discusses a request with the employee or is waiting for additional information.

D.15. Assume that an employer grants telework to employees to slow or stop the spread of COVID-19. When an employer reopens the workplace and recalls employees to the worksite, does the employer automatically have to grant telework as a reasonable accommodation to every employee with a disability who requests to continue this arrangement as an ADA/Rehabilitation Act accommodation?

No. If an employee requests a reasonable accommodation, the employer is entitled to understand the disability-related limitation that necessitates an accommodation. If there is no disability-related limitation that requires teleworking, then the employer does not have to provide telework as an accommodation. Or, if there is a disability-related limitation, but the employer can effectively address the need with another form of reasonable accommodation at the workplace, the employer can choose that alternative to telework.

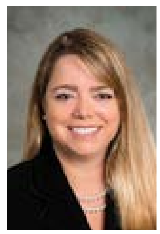
To the extent that an employer is permitting telework to employees because of COVID-19 and is choosing to excuse an employee from performing one or more essential functions, then a request — after the workplace reopens — to continue telework as a reasonable accommodation does not have to be granted if it requires continuing to excuse the employee from performing an essential function. The ADA never requires an employer to eliminate an essential function as an accommodation for an individual with a disability.

The fact that an employer temporarily excused performance of one or more essential functions when it closed the workplace and enabled employees to telework to protect their safety from COVID-19, or otherwise chose to permit telework, does not mean that the employer permanently changed a job's essential functions, that telework is always a feasible accommodation, or that it does not pose an undue hardship. These are fact-specific determinations. The employer has no obligation under the ADA to refrain from restoring all of an employee's essential duties at such time as it chooses to restore the prior work arrangement and then evaluating any requests for continued or new accommodations under the usual ADA rules.

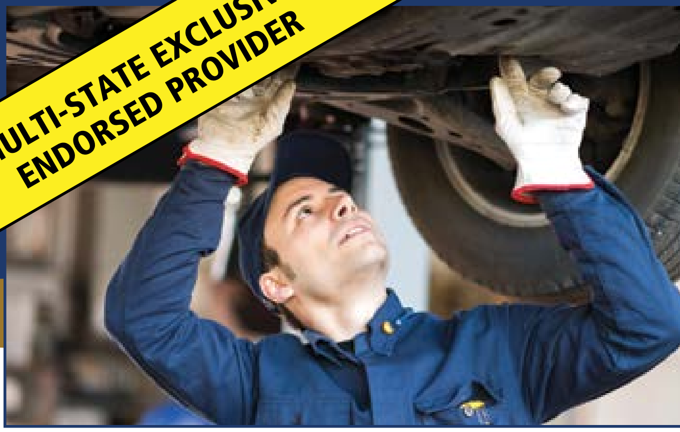
To see all of the EEOC's guidance on what employers should know about COVID-19, the technical assistance questions and answers may be found at: https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws.

This blog is not meant to provide specific legal advice. For advice specific to your business, please contact any of the employment attorneys in our Employment Practices Group.

This article is one of a series of articles Ferruzzo & Ferruzzo, LLP will be circulating to address questions from clients related to COVID-19. Ferruzzo & Ferruzzo, LLP has formed a task force to assist business owners with their needs related to COVID-19.



Colleen M. McCarthy, Esq. is a partner and chairs the Firm's Employment Practices Group. She has dedicated her practice to representing and protecting employers, with a particular emphasis on risk mitigation through preventative counseling and sound practical advice. For almost 20 years, Colleen McCarthy has counseled employers about the complicated employment laws that impact their businesses to ensure that they are in compliance and to reduce the chance of costly litigation. Colleen McCarthy may be reached by phone at (949) 608-6900 or email at cmccarthy@ferruzzo.com.



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Newsom Orders 2035 Phaseout of Gas-Powered Vehicles, Calls For Fracking Ban

By Phil Willon and Tony Barboza
Previously published in the Los Angeles Times

Emphasizing that California must stay at the forefront of the fight against climate change, Gov. Gavin Newsom issued an executive order on September 16 to restrict new car sales in the state to only zero-emission vehicles by 2035 and threw his support behind a ban on the controversial use of hydraulic fracking by oil companies.

Under Newsom's order, the California Air Resources Board would implement the phaseout of new gas-powered cars and light trucks and also require medium and heavy-duty trucks to be zero-emission by 2045 where possible. California would be the first state in the nation to mandate 100% zero-emission vehicles, though 15 countries already have committed to phasing out gas-powered cars.

Newsom did not take executive action to ban the controversial oil extraction method known as fracking but called on the state legislature to do so, setting up what could be a contentious political fight when lawmakers reconvene in Sacramento next year.

Taken together, the two climate change efforts would accelerate the state's already aggressive efforts to curtail carbon emissions and petroleum hazards and promise to exacerbate tensions with a Trump administration intent on bridling California's liberal environmental agenda.

"This is the most impactful step our state can take to fight climate change," Newsom said in a statement released Wednesday morning. "Our cars shouldn't make wildfires worse — and create more days filled with smoky air. Cars shouldn't melt glaciers or raise sea levels threatening our cherished beaches and coastlines."

Newsom said that California's action will help spur greater innovation for zero-emission vehicles and, by creating a huge market, will drive down the cost of those cars and trucks. According to the California New Car Dealers Association, more than 1.63 million new cars and trucks are expected to be sold in the state in 2020.

Climate scientists and advocates say the world must stop producing gas- and diesel-powered vehicles by 2035 or earlier to keep global warming to tolerable levels. California and other governments worldwide are seeking to achieve carbon neutrality by 2045, and it will take years for vehicles to turn over and be replaced by zero-emission models.

Newsom sharply criticized the Trump administration this month for ignoring the reality of climate change, saying that California's deadly wildfires, some of the largest in state history, were grim reminders of what lies ahead for the nation if political leaders in Washington don't take action. Rising temperatures have decimated forests across the West Coast, leaving behind swaths of dead trees to fuel catastrophic wildfires.

"This is a climate damn emergency," Newsom said during a tour of the charred landscape around the Northern California town of Oroville. "This is real and it's happening."

While meeting with Newsom in Sacramento last week, Trump expressed skepticism about the scientific evidence of climate change, saying: "It'll start getting cooler. You just watch."

The state has sued the Trump administration to block efforts by the U.S. Environmental Protection Agency to rescind a special federal waiver that permits California to set its own strict pollution controls to improve air quality, the foundation of the state's aggressive efforts to combat climate change.

While pleased about Newsom's action on zero-emission vehicles, environmental activists remain skeptical about his actions on fracking. In November, Newsom imposed a temporary moratorium on new hydraulic fracking permits, saying he wanted them to undergo independent scientific review. Since April, however, his administration has issued close to 50 new permits to Chevron and Aera Energy, frustrating environmentalists.

"Newsom is really good at making announcements that sound big, but they aren't. We can't let the fact that he's acting on cars eclipse the fact that he's still protecting the oil industry," said Kassie Siegel, director of the Climate Law Institute at the Center for Biological Diversity. "He is the governor of the state at the very center of the climate emergency right now, and he has the political environment here that allows him to think big. If he won't take strong action that we so desperately need, who will?"

This week, Siegel's organization threatened to sue Newsom unless he halted all new permits for gas and oil wells in the state, saying the governor has failed to protect the health of vulnerable Californians from pollutants released by the state's petroleum industry.

Since taking office, Newsom has faced pressure from politically influential environmental groups to ban new oil and gas drilling and completely phase out fossil fuel extraction in California, one of the nation's top petroleum-producing states.

But the Democratic governor has pushed back, promising to take a more measured approach that addressed the effects on oil workers and California cities and counties that are economically dependent on the petroleum industry.

California has 1,175 active offshore wells and 60,643 active onshore wells. In 2019, the state produced just under 159 million barrels of oil, CalGEM records show. The state's annual crude oil production has been consistently declining since 1985.

California oil industry representatives have argued that phasing out oil production in the state, which has some of the world's strictest environmental regulations, would force more oil to be imported by train and tanker ships from countries that do not have the same environmental safeguards. According to the Western States Petroleum Assn., there are more than 26 million vehicles with internal-combustion engines in California.

Under the current regulations, California's Air Resources Board requires automakers to sell electric, fuel cell and other zero-emission vehicles in increasing percentages through 2025.

Cars, trucks and other vehicles are the largest emitters of greenhouse gases in California, accounting for about 40% of the statewide total. Their emissions have been stubbornly creeping upward in recent years. Driving down transportation pollution remains the state's biggest challenge in achieving its goal of slashing planet-warming emissions to 40% below 1990 levels by 2030.

Under the current regulations, California's Air Resources Board requires automakers to sell electric, fuel cell and other zero-emission vehicles in increasing percentages through 2025. Electric and plug-in hybrid vehicles accounted for 7.6% of new car registrations in California in 2019.

In 2018, under then-Gov. Jerry Brown, the state set a goal to put 5 million zero-emission cars on the road by 2025. According to auto industry sales data, there were 670,000 zero-emission vehicles sold in California through the end of 2019.

In June, the Air Resources Board adopted the nation's first sales mandate requiring heavy-duty truck manufacturers to sell increasing percentages of electric or fuel cell models until all new trucks sold in California are zero-emission by 2045.

But efforts to completely phase out gas-powered cars have not gained traction. Three years ago, Brown directed the state's chief air quality regulator, Mary Nichols, to look into stepping up the state's timetable. But so far, her agency has only floated the idea of banning gas-powered vehicles in the state's congested areas. And legislation lawmakers introduced in 2018 to require all cars registered in the state be zero-emission by 2040 didn't move forward.

Some local governments have set their own zero-emission vehicle targets, which they are unlikely to achieve without the backing of tougher regulations. A "Green New Deal" plan by Los Angeles Mayor Eric Garcetti, for example, aims to increase the percentage of zero-emission vehicles to 25% by 2025, 80% by 2035 and 100% by 2050. ⊙


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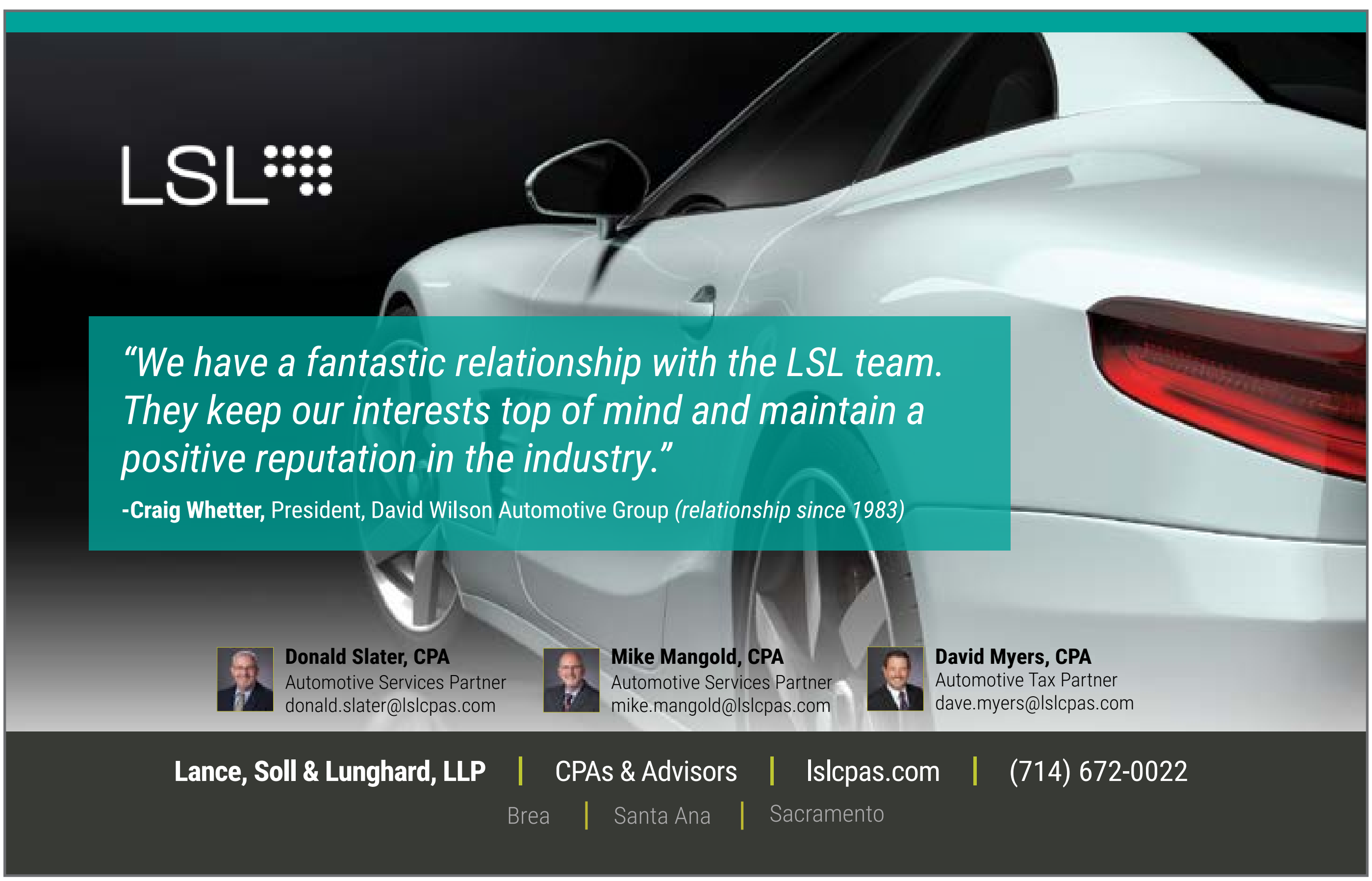
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Los Angeles Auto Outlook

Comprehensive information on the LA County new vehicle market

Greater Los Angeles New Car Dealers Association

FORECAST

New Vehicle Market Shows Resiliency During Pandemic

2020 has been a year unlike any other for the Los Angeles County new vehicle market, with several, seemingly paradoxical events occurring at the same time. Despite a preponderance of bad economic news, the main factor restricting growth in the new vehicle market has been tight inventories, not weak demand. The latest evidence: September registrations were essentially unchanged versus a year earlier. And even with a 22.5% decline in year-to-date new vehicle sales, dealership profits have for the most part, held steady. It's unprecedented that these events would take place simultaneously.

In times such as these, it is challenging to get a clear picture of what lies ahead for the county new vehicle market. But despite the elevated uncertainty, there are four identifiable trends that should dictate the course of the new vehicle market over the next year:

- **Pent up demand is growing.** Pent up demand has grown significantly due to the sales slowdown resulting from the pandemic (see page 27). These delayed purchases will occur at some point in the future and will give a boost to sales during the next several years.

- **Vehicle affordability will remain strong.** Interest rates are low and the Fed has indicated that they will stay that way for an extended period, which is a key factor in helping to keep monthly lease and finance payments affordable. Incentives have eased during the summer as vehicle supplies have dwindled, but the manufacturers will almost certainly increase discounts once inventories improve. In addition, record high used vehicle prices have boosted vehicle trade in values.

- **Robust economic recovery will take a while.** Employment levels and GDP growth have rebounded during the summer, but most economists believe it will take years, not months, for the labor market to return to full employment. Until then, the new vehicle market will be limited to about 85% of its baseline potential.

- **Pandemic will likely fuel increased desire for vehicle ownership.** As discussed in last issue of Auto Outlook, new vehicle sales will get a boost by changes in consumer behavior brought about by the virus. Vehicle ownership provides freedom, independence, and a sense of personal control that is now front and center in peoples' minds. These benefits are likely to impact consumer behavior, even when COVID-19 fades.

Bottom line: There are some encouraging signs pointing to a recovery in the new vehicle market, but until the virus is no longer a factor, significant economic headwinds are likely to prevent sales from taking off. Auto Outlook predicts that 385,500 new vehicles will be registered in the county this year, a 19% decline from 2019. Assuming there is not a major spike in the virus that would lead to the reoccurrence of widespread business closures, the market should move higher next year. However, even with the increase, registrations are predicted to remain below 420,000 units, which is about 60,000 units lower than the total in 2019.

Key Indicators for County New Vehicle Market

Annual Forecasts

2020: 385,500 units — **Down 19% vs. 2019**

2021: 418,000 units — **Up 8% vs. 2020**

County Market vs. U.S.

Percent change in new retail registrations YTD '20 thru Sept. vs. YTD '19

Los Angeles County: **DOWN 22.5%**

U.S. Market: **DOWN 16.4%**

Historical Data Source: AutoCount data from Experian.
Forecast projections: Auto Outlook.

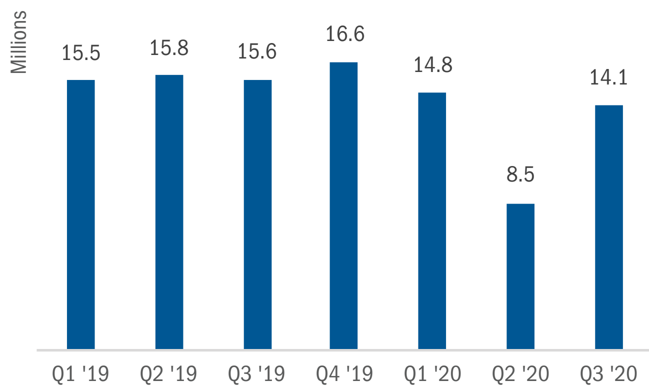
AUTO OUTLOOK — *continued on page 27*

Los Angeles County New Vehicle Market Dashboard

MARKET PERFORMANCE DURING PAST TWO YEARS

Los Angeles County Quarterly Registrations

Seasonally Adjusted Annual Rate, Converted to Equivalent U.S. New Vehicle Market SAAR (millions of units)



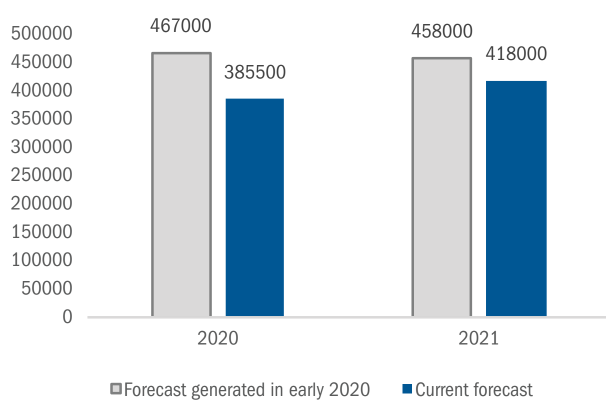
Data Source: AutoCount data from Experian.

The graph on the left provides an easily recognizable way to gauge the strength of the county market. It shows quarterly registrations in the county, based on a seasonally adjusted annual rate. These figures are then indexed to SAAR sales figures for the U.S. new vehicle market. So just like in the national market, when the quarterly SAAR is above 17 million units, the county market is strong, 15 million is about average, and below 13 million is weak. Quarterly registrations in the county plummeted to a U.S. equivalent level of 8.5 million units in the Second Quarter, and recovered to a better, but still not great 14.1 million in the Third Quarter.

PENT UP DEMAND

County market forecasts for 2020 and 2021

Before and after onset of COVID Pandemic



121,500

new vehicle purchases will be postponed during 2020 and 2021, representing about

26%

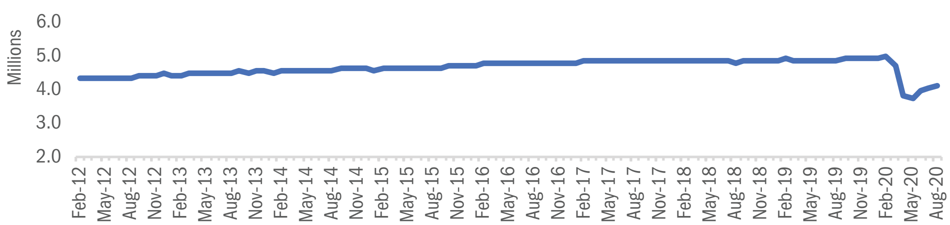
of sales in an average year

Historical Data Source: AutoCount data from Experian. Forecast projections: Auto Outlook.

Los Angeles County New Vehicle Market Dashboard

TRACKING ECONOMIC INDICATORS

Total Employment in Los Angeles County

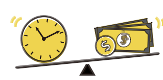


Following the sharp decline in April, total employment in Los Angeles County has trended upward, but still remains well below pre-pandemic levels. The county unemployment rate was 16.6% in August, down from 18.5% in July, but higher than a year earlier. Consumer sentiment has improved somewhat during the past few months, but is still off from recent highs.

Monthly Unemployment Rates in Los Angeles County

AUGUST 2019	JULY 2020	AUGUST 2020
4.8%	18.5%	16.6%

Average Hourly Earnings for All Workers in County - August 2020

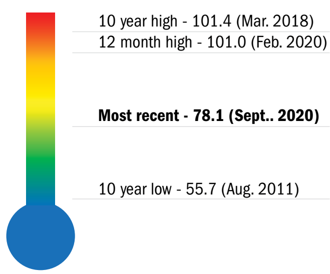


$34.15

Up $2.52 vs. year earlier

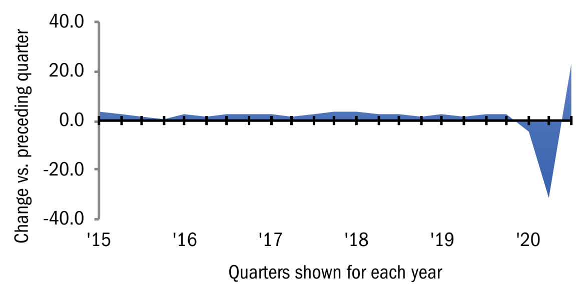
University of Michigan Consumer Sentiment

Key Values During Past 10 Years



Percent Change in U.S. Gross Domestic Product

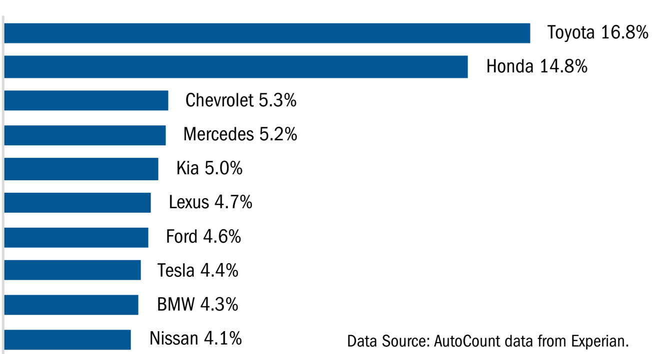
Change vs. previous quarter



Sources: Bureau of Labor Statistics, University of Michigan, and U.S. Bureau of Econ. analysis.

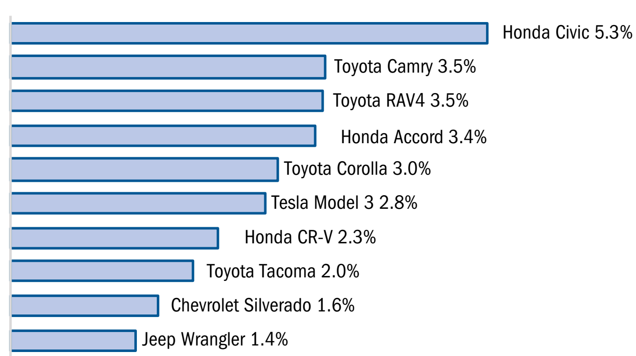
TOP TEN RANKINGS IN COUNTY MARKET

Market Share for Top Ten Selling Brands in County Market YTD 2020 thru September



Data Source: AutoCount data from Experian.

Market Share for Top Ten Selling Models in County Market YTD 2020 thru September



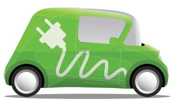
AUTO OUTLOOK — *continued on page 29*

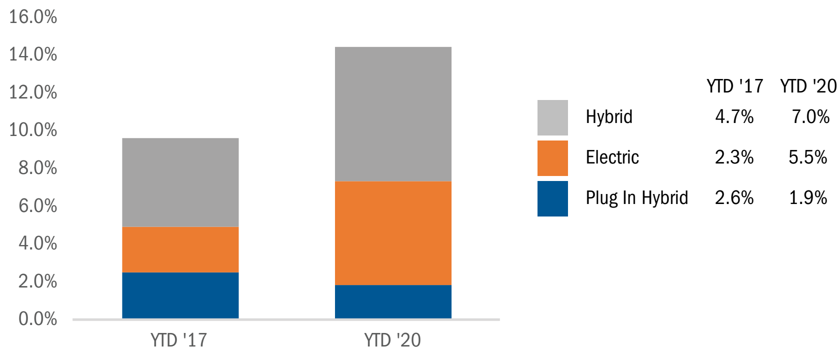
Three Long Term Trends in County New Vehicle Market

Trend...	The numbers...	Primary conclusion...

Estimated Alternative Powertrain Share*-YTD '17 and '20, thru Sept.

Alternative Powertrains

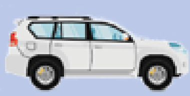


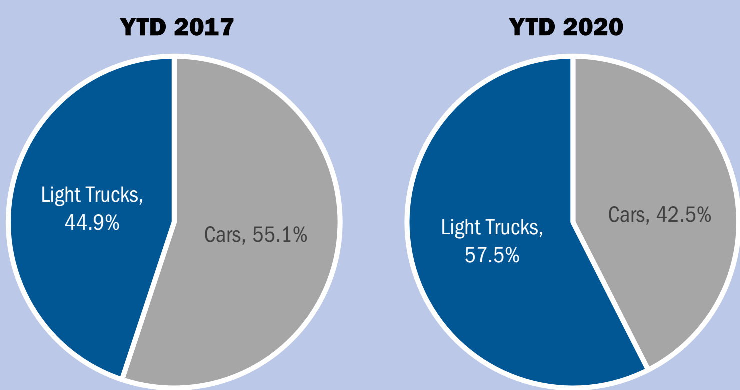


Electric vehicle market share in the county has increased by 3.2 share points during the past three years. Hybrid vehicle share was up 2.3 points.

Light Truck and Passenger Car Share - YTD '17 and '20, thru Sept.

Light Trucks

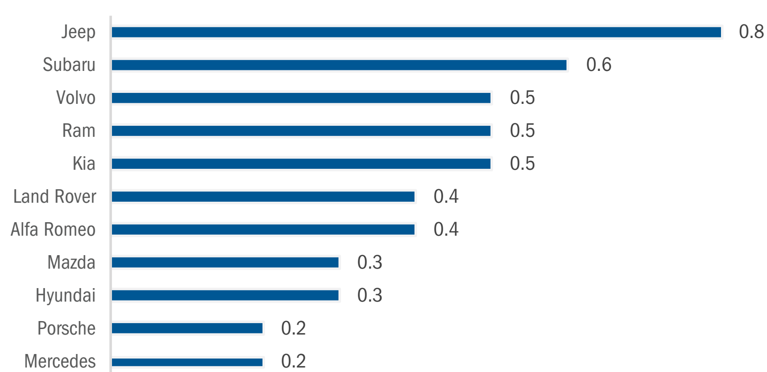




Light truck market share increased to 57.5% during the first nine months of 2020, up 12.6 points from 2017.

Brands with Largest Market Share Increases - YTD '17 to YTD '20

New Vehicle Brands



Five brands had market share increases of 0.5 of a point or higher: Jeep, Subaru, Volvo, Ram, and Kia

Data Source: AutoCount data from Experian. *Registrations by powertrain for vehicles equipped with multiple engine types were estimated by Auto Outlook. The estimates are based on model registrations compiled by Experian, and engine installation rates collected from other sources. The graph above showing largest market share increases excludes Tesla, since the Model 3 was introduced during 2017.

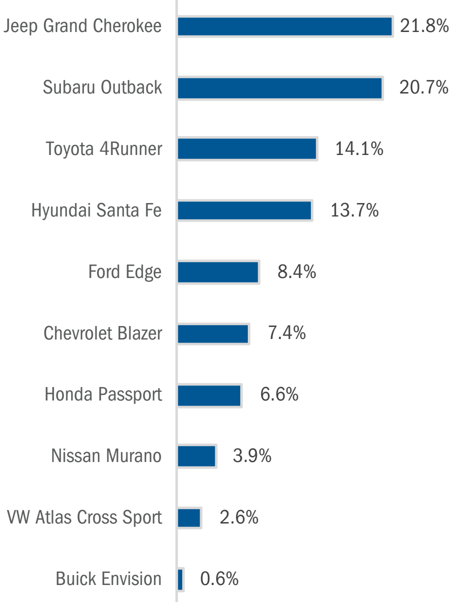
SEGMENT CLOSE-UP: MID SIZE SUVs

Toyota & Subaru Lead County Mid Size SUV Segment

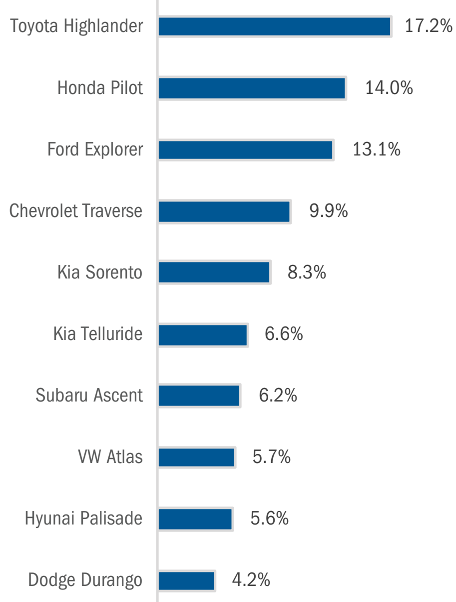
Model Sales Leaders

Top 10 Selling Models in County for Two Row and Three Row Mid Size SUVs - YTD 2020 thru Sept.

Market Share for Two Row Mid Size SUVs



Market Share for Three Row Mid Size SUVs



Data Source: AutoCount data from Experian.

Two Key Trends

#1 Mid Size SUV segment is performing better than the overall market...

% Change in New Vehicle Registrations YTD '17 thru Sept. to YTD '20

Mid Size SUVs: **DOWN 10.2%**

Industry **DOWN 29.2%**

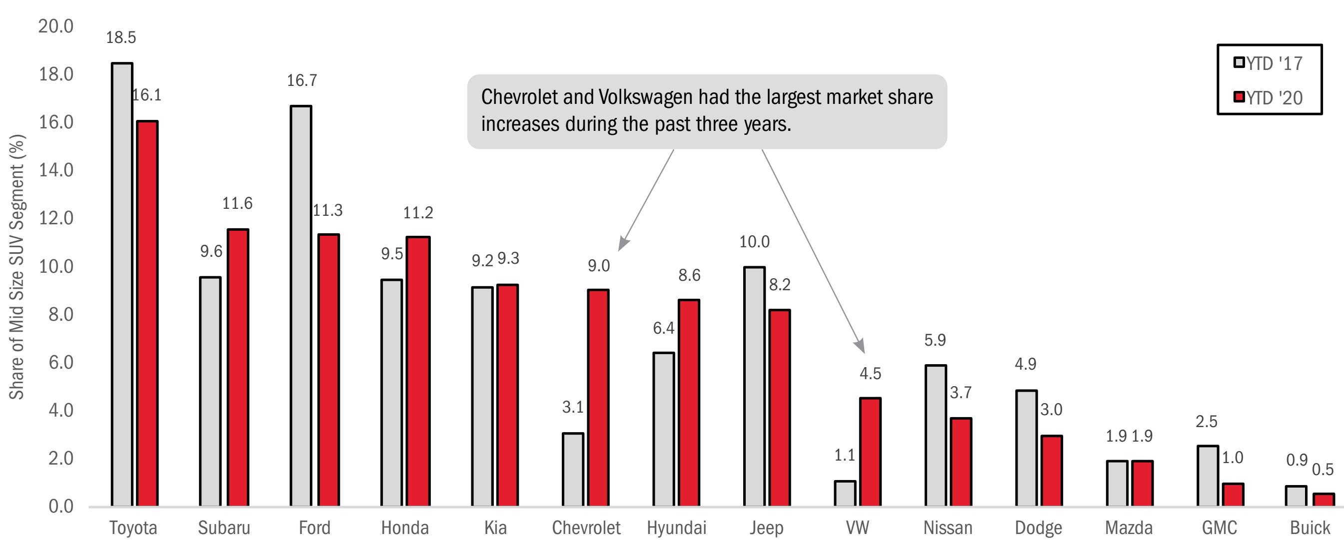
#2 Three row SUVs have been gaining market share in Mid Size SUV segment...

3 Row SUV Share of Mid Size SUV Segment - YTD '17 and YTD '20 (Sept.)

YTD 2017: **59.9%**

YTD 2020: **62.6%**

Brand Market Share in County Mid Size SUV Segment - YTD 2017 and YTD 2020 (thru Sept.)



Data Source: AutoCount data from Experian.

AUTO OUTLOOK — *continued on page 31*

➲ AUTO OUTLOOK — *continued from page 30*

Brand Registrations Report
Los Angeles County New Retail Car and Light Truck Registrations

	Third Quarter						YTD thru September					
	Registrations			Market Share (%)			Registrations			Market Share (%)		
	3Q '19	3Q '20	% change	3Q '19	3Q '20	Change	YTD '19	YTD '20	% change	YTD '19	YTD '20	Change
TOTAL	120,330	101,206	-15.9				357,588	276,976	-22.5			
Cars	55,843	41,173	-26.3	46.4	40.7	-5.7	168,337	117,824	-30.0	47.1	42.5	-4.6
Light Trucks	64,487	60,033	-6.9	53.6	59.3	5.7	189,251	159,152	-15.9	52.9	57.5	4.6
Domestic Brands	25,005	22,788	-8.9	20.8	22.5	1.7	75,887	62,751	-17.3	21.2	22.7	1.5
European Brands	24,556	20,232	-17.6	20.4	20.0	-0.4	73,929	55,901	-24.4	20.7	20.2	-0.5
Japanese Brands	61,387	49,137	-20.0	51.0	48.6	-2.4	181,635	134,343	-26.0	50.8	48.5	-2.3
Korean Brands	9,382	9,049	-3.5	7.8	8.9	1.1	26,137	23,981	-8.2	7.3	8.7	1.4
Acura	1,116	974	-12.7	0.9	1.0	0.1	3,726	2,674	-28.2	1.0	1.0	0.0
Alfa Romeo	465	482	3.7	0.4	0.5	0.1	1,414	1,545	9.3	0.4	0.6	0.2
Audi	3,148	2,629	-16.5	2.6	2.6	0.0	9,872	7,718	-21.8	2.8	2.8	0.0
BMW	5,916	4,021	-32.0	4.9	4.0	-0.9	17,380	12,032	-30.8	4.9	4.3	-0.6
Buick	295	216	-26.8	0.2	0.2	0.0	978	502	-48.7	0.3	0.2	-0.1
Cadillac	511	433	-15.3	0.4	0.4	0.0	1,594	1,233	-22.6	0.4	0.4	0.0
Chevrolet	6,342	5,150	-18.8	5.3	5.1	-0.2	20,041	14,547	-27.4	5.6	5.3	-0.3
Chrysler	247	165	-33.2	0.2	0.2	0.0	871	483	-44.5	0.2	0.2	0.0
Dodge	1,796	1,551	-13.6	1.5	1.5	0.0	4,908	4,553	-7.2	1.4	1.6	0.2
FIAT	126	52	-58.7	0.1	0.1	0.0	409	152	-62.8	0.1	0.1	0.0
Ford	5,272	4,771	-9.5	4.4	4.7	0.3	15,748	12,830	-18.5	4.4	4.6	0.2
Genesis	181	129	-28.7	0.2	0.1	-0.1	333	413	24.0	0.1	0.1	0.0
GMC	810	896	10.6	0.7	0.9	0.2	2,546	2,404	-5.6	0.7	0.9	0.2
Honda	18,558	14,758	-20.5	15.4	14.6	-0.8	55,455	41,085	-25.9	15.5	14.8	-0.7
Hyundai	3,831	3,742	-2.3	3.2	3.7	0.5	10,453	9,827	-6.0	2.9	3.5	0.6
Infiniti	1,438	845	-41.2	1.2	0.8	-0.4	4,573	2,577	-43.6	1.3	0.9	-0.4
Jaguar	327	291	-11.0	0.3	0.3	0.0	1,196	874	-26.9	0.3	0.3	0.0
Jeep	3,621	3,449	-4.8	3.0	3.4	0.4	11,018	9,026	-18.1	3.1	3.3	0.2
Kia	5,370	5,178	-3.6	4.5	5.1	0.6	15,351	13,741	-10.5	4.3	5.0	0.7
Land Rover	1,453	1,326	-8.7	1.2	1.3	0.1	4,852	3,861	-20.4	1.4	1.4	0.0
Lexus	5,914	4,941	-16.5	4.9	4.9	0.0	18,176	13,081	-28.0	5.1	4.7	-0.4
Lincoln	387	348	-10.1	0.3	0.3	0.0	1,242	1,049	-15.5	0.3	0.4	0.1
Maserati	110	117	6.4	0.1	0.1	0.0	432	342	-20.8	0.1	0.1	0.0
Mazda	2,604	2,621	0.7	2.2	2.6	0.4	8,004	6,765	-15.5	2.2	2.4	0.2
Mercedes	6,480	5,479	-15.4	5.4	5.4	0.0	18,949	14,359	-24.2	5.3	5.2	-0.1
MINI	660	519	-21.4	0.5	0.5	0.0	2,003	1,306	-34.8	0.6	0.5	-0.1
Mitsubishi	387	165	-57.4	0.3	0.2	-0.1	957	552	-42.3	0.3	0.2	-0.1
Nissan	5,423	3,790	-30.1	4.5	3.7	-0.8	16,958	11,375	-32.9	4.7	4.1	-0.6
Other	304	232	-23.7	0.3	0.2	-0.1	961	782	-18.6	0.3	0.3	0.0
Porsche	1,206	1,170	-3.0	1.0	1.2	0.2	3,305	2,893	-12.5	0.9	1.0	0.1
Ram	1,306	1,653	26.6	1.1	1.6	0.5	3,843	3,989	3.8	1.1	1.4	0.3
Subaru	4,216	3,745	-11.2	3.5	3.7	0.2	12,389	9,693	-21.8	3.5	3.5	0.0
Tesla	4,418	4,156	-5.9	3.7	4.1	0.4	13,098	12,135	-7.4	3.7	4.4	0.7
Toyota	21,731	17,298	-20.4	18.1	17.1	-1.0	61,397	46,541	-24.2	17.2	16.8	-0.4
Volkswagen	3,311	2,865	-13.5	2.8	2.8	0.0	10,268	7,438	-27.6	2.9	2.7	-0.2
Volvo	1,050	1,049	-0.1	0.9	1.0	0.1	2,888	2,599	-10.0	0.8	0.9	0.1

Source: AutoCount data from Experian.

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Ask Alison

Arrangements (HRAs) require additional targeted communication to avoid confusion and encourage participation in these plans. Employees who understand their coverage options and feel empowered make better informed, cost-effective health care decisions.

Q: How does my dealership have a successful Open Enrollment for our employees during COVID?

A: The key to a successful enrollment is effective employee communication. Employees must have the resources to learn about the value of their benefits and options, any potential plan changes or plan additions and coverage details. Many dealerships begin communicating with employees well in advance of Open Enrollment to allow employees ample time to learn about benefit offerings, ask questions and consult with their families, so they are prepared to make the best benefit decisions possible.

Q: How do I ensure my dealership's employees appreciate and understand our benefits if Open Enrollment looks different this year?

A: A recent study shows that up to half of employees do not understand their benefits or perceive value in them, despite the major investment dealerships make in employee benefits. Frequently sending small amounts of benefits information using new technology (such as videos and mobile apps) will lead to a greater understanding of the value of the benefits you offer. In addition to technology — one-on-one enrollment (either in person with new protocols or virtual), payroll stuffers, breakroom posters and other traditional types of communication can help.

Q: My dealership may want to introduce additional, lower-cost plan options this year. How do we drive enrollment to these plans and ensure employees understand the benefits?

A: Individuals can take full advantage of benefits only if they understand what options are available and how they work. Health Savings Accounts (HSAs) and Health Reimbursement Arrangements (HRAs) require additional targeted communication to avoid confusion and encourage participation in these plans. Employees who understand their coverage options and feel empowered make better informed, cost-effective health care decisions.

Q: How does our dealership make the Open Enrollment process successful during this time?

A: The easier the enrollment process is for employees, the more successful your Open Enrollment will be. If possible, work with your insurance consultant or enrollment platform.

- If still using paper, consider implementing a benefits administration system. If you use paper this year, make paper forms as easy as possible to understand and reduce the required information.
- Ensure the enrollment website is easy to navigate and includes links to more detail if needed, such as on eligibility and HDHP, HSA and FSA rules.
- Ensure all up-to-date compliance documents are posted.

Carefully thought out and prepared benefit communications can help engage employees, steer enrollment, increase perceived value and lead to a successful enrollment season.

EPIC can help your dealership navigate Open Enrollment with the new challenges facing you and your HR team due to COVID-19.

EPIC ranks among the top 15 retail insurance brokers in the United States and is the largest insurer of auto dealers in the state. Alison McCallum has been in the employee benefits industry for over 20 years. She is a principal with EPIC Insurance Brokers and Consultants, the only CNCDA licensed broker. With this partnership, EPIC offers unique services available to GLANCDA dealer members at no cost. If you have questions or would like further information, please feel free to contact her at (949) 417-9136 or alison.mccallum@epicbrokers.com.

The Clean Vehicle Rebate Project

California leads the nation with the highest number of EVs on its roads due to statewide incentive programs to encourage EV adoption. The Clean Vehicle Rebate Project (CVRP) is implemented by the California Air Resources Board and administered by the Center for Sustainable Energy.

CVRP benefits EV shoppers with a financial incentive rebate of up to $7,000 to purchase or lease a new, eligible EV dependent on applicant income eligibility. CVRP contributes to over $720 million of funds to 320,000 EVs on California's roads to date. Due to current events and its impacts on the car industry and purchasing experience, California dealerships can continue leveraging these incentives to increase overall sales and help their customers save money.

CVRP Rebate Amounts

Vehicle Type	Standard Rebate	Increased Rebate
Fuel Cell Electric Vehicle (FCEV)	$4,500	$7,000
Battery Electric Vehicle (BEV)	$2,000	$4,500
Plug-in Hybrid Electric Vehicle (PHEV)	$1,000	$3,500
Zero-Emission Motorcycle	$750	$750

CVRP Program Eligibility

CVRP has frequent updates to funding and program changes, which helps expand EV adoption accessibility to California residents. CVRP current eligibility requirements include:

Income Eligibility

Consumers are ineligible for a rebate if their gross annual income exceeds the following thresholds.

- $150,000 for single filers
- $204,000 for head-of-household filers
- $300,000 for joint filers

The caps do not apply to FCEVs.

Program Eligibility

Applicants must fulfill the following requirements for eligibility.

- Must be a California resident.
- **Vehicle must be new** at time of lease of purchase.
- One rebate per person. FCEVs may qualify for second rebate.
- Must apply within three months after purchase.

Vehicle Eligibility

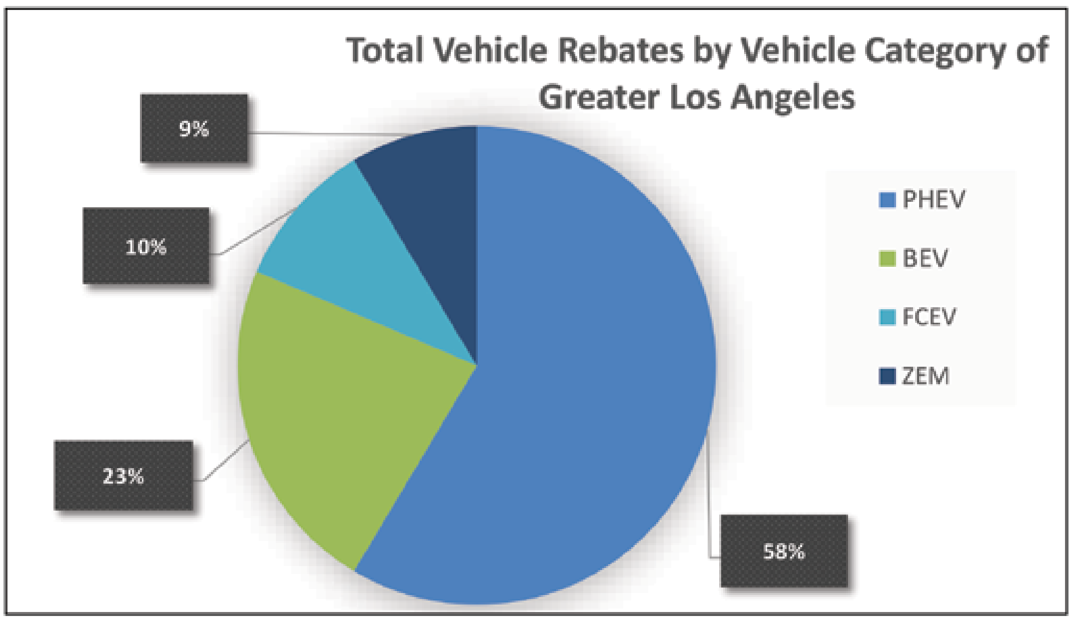
- Rebates have a cap of $60,000 base MSRP (except FCEVs).
- Eligible PHEVs must have a minimum all-electric range of 35 miles in compliance with the Urban Dynamometer Driving Schedule (UDDS) test standards.
- Vehicle must be owned, operated and registered in California for a minimum of 30 months.
- Previously registered unwinds, rollbacks and demo vehicles are not eligible.

Center for Sustainable Energy™ · California Climate Investments · California Air Resources Board

Greater Los Angeles Dealership Influence of EV Adoption:

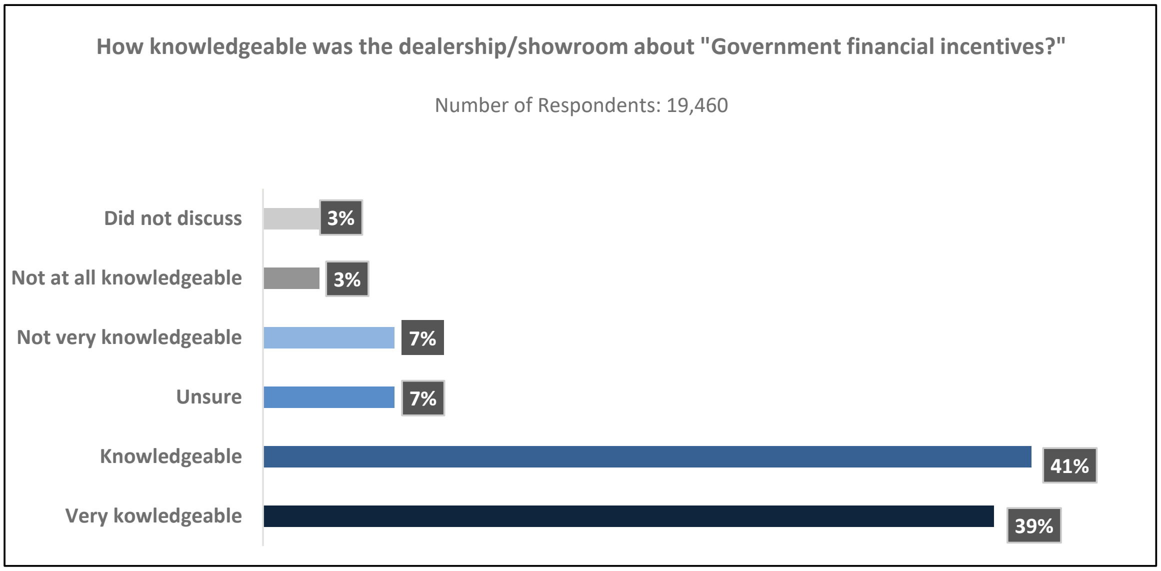
There are 455 new car dealerships eligible for CVRP in the Greater Los Angeles area. In 2019, the combined counties of Los Angeles, San Bernardino, Ventura and Riverside received a total of 24,450 rebates, amounting to $62 million in funding for individuals, businesses and local government entities. This impressive amount was made possible through the hard work of dealerships in the area.

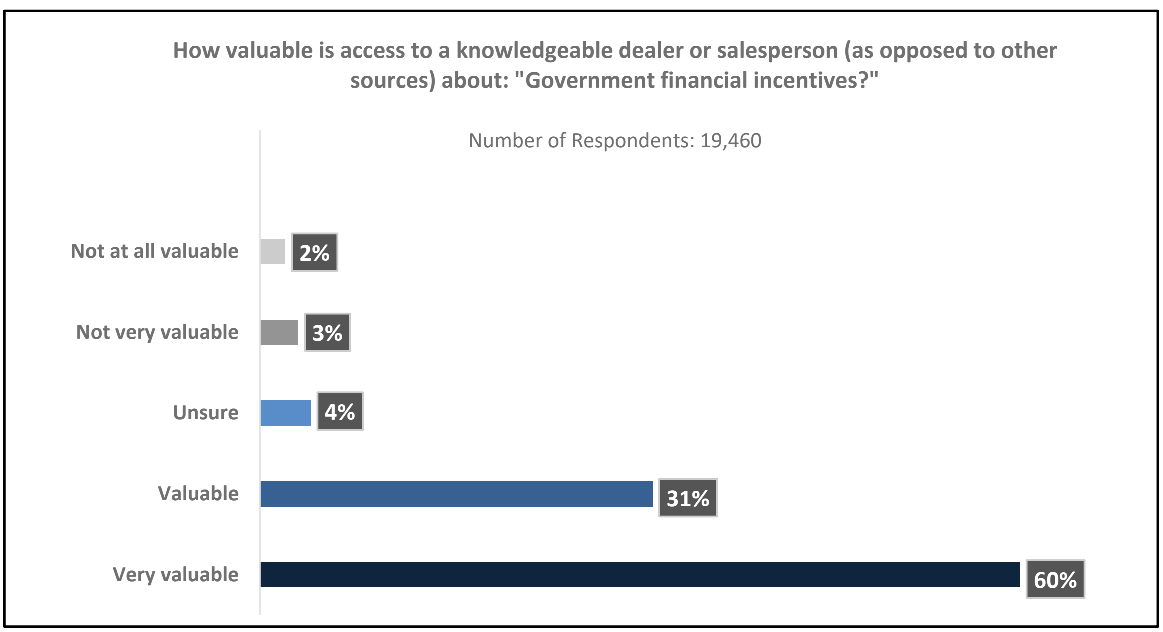
Vehicle Type	Total Vehicle Rebates	Funding
PHEV	**7,325**	**$13,896.750**
BEV	**16,257**	**$44,023,707**
FCEV	**814**	**$ 4,318,500**
ZEM	**54**	**$48,300**
TOTAL	**24,450**	**$62,287,257**



EV Customer Dealership Experience

Dealerships help EV shoppers find the best vehicle to suit their needs. Based on CSE's Electric Vehicle Customer Survey, EV customers who received a rebate said dealerships are very knowledgeable about government financial incentives and contribute to the EV customer purchasing experience. Dealerships provide instrumental information to customers when deciding to purchase an EV. The charts below provide more detailed information about the survey.

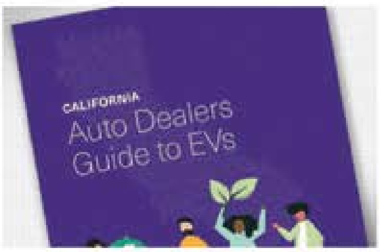




Online resources

The CVRP dealership outreach team offers online information sessions, webinars, marketing materials and other resources to ensure dealership sales staff are equipped to sell EVs and provide EV shoppers a comprehensive and positive buying experience. CVRP dealership coordinators are available to answer any questions and concerns regarding the program. Please feel free to email us at dealership@energycenter.org

CVRP information is easily accessible on the CVRP Dealer Hub web page, a toolbox of tips and resources supporting EV sales. Please visit the Dealer Hub at https://cleanvehiclerebate.org/eng/dealer



Auto Dealers Guide to EVs

Dealership-facing overview of EV technology, features, benefits and incentives

Program Overview

Basics of the Clean Vehicle Rebate Project and preapproved rebates

Dealer Resources

Download flyers and get essential electric vehicle information

Savings Calculator

Use our calculator to find electric vehicle incentives in your area

CVRP Rebate Now Resources

Learn about a preapproved rebate process in San Diego County

Dealer Outreach Map

The CVRP Dealership team has continuously visited these dealerships since 2017

Center for Sustainable Energy (2019). California Air Resources Board Clean Vehicle Rebate Project, Rebate Statistics. Data last updated [Oct. 23, 2019]. Retrieved [Nov. 4, 2019] from https://cleanvehiclerebate.org/eng/rebate-statistics

Auto Dealers Face a Revolution in Their Business As EVs Are Poised to Gain Market Share

By MICHAEL HILTZIK | BUSINESS COLUMNIST

It was Friday morning, and eight members of the sales staff at Felix Chevrolet were gathered around the table for a weekly seminar led by Darryl Holter, the boss of the venerable downtown Los Angeles dealership.

This may be one of the more unusual educational efforts in Southern California. The students get weekly reading assignments, on which they're quizzed, just as in regular schools. But the topic is unusual: how to sell customers on electric cars.

The working-class Latinos who make up Felix's core market haven't been early adopters of novel products such as EVs. The obstacles include the perception that EVs are more expensive than conventional cars — that's true, before government and retailer incentives are counted.

One problem? EVs are skimpier on range. While a gasoline car can run 350 miles or more on a single fill-up, EVs generally run about 200 to 250 miles before needing a charge, and charging stations are harder to find than gas stations, especially in working-class neighborhoods.

The point is to emphasize the less understood advantages of EVs. "We point out that maintenance is very low," says Janet Lopez, one of the sales staff attending Holter's seminars. "There are no oil changes — when you bring the car in, you just have to rotate the tires and check the battery."

Holter is convinced that the EV wave is coming. So he tapped this group of salespersons to give them the tools to meet growing demand.

"They're younger, they're less experienced in the car business, but they're savvier about social media," Holter told me. "I want them to know what distinguishes an electric car. I want them to talk about the rebates and other programs to line up the price points closer to that of a gasoline car. I want to be able to put the customer at ease."

EVs' maintenance costs are as much as one-third lower than those of conventional cars; however, they have fewer moving parts or mechanical systems that are expensive to fix or replace, such as transmissions

It has taken the American auto dealer community too long to understand the challenges that may be holding buyers back by many accounts. Except perhaps for Tesla, consumer awareness of EVs has remained low. The Sierra Club issued a disillusioned report in 2016 after it sent 174 volunteers into auto showrooms in California and nine other states with zero-emission vehicle sales mandates.

The volunteers reported that EVs were often hard to find on showroom floors and that vehicles designated for test drives were often left without adequate charges.

Sales staff often failed to explain the government subsidies that could bring down the vehicles' prices by as much as one-third and weren't well-versed in the cars' features or how to operate them. There are few signs that things have improved much since then.

The reluctance of auto dealers to stock and sell EVs has been an article of faith for years. Auto manufacturers tend to blame EVs' small share of the overall market on consumers, who they say gravitate toward bigger, heavier cars and SUVs and shun smaller, nimbler EVs.

Dealers say they're willing to sell whatever consumers want to buy. But they also say that consumer preferences reflect dynamic factors in the marketplace, including gasoline price. The auto industry hasn't been especially skilled at anticipating those factors.

"When gas prices went up, everyone wanted compacts," Holter recalls. "Then, when they stopped going up anymore, we were stuck with all this inventory."

Dealers may also be wary of EVs because they know that the advanced vehicles are destined to upend their traditional business model.

"Very few dealers make money selling new cars," says Howard Drake, the Casa Automotive Group owner — which includes Casa de Cadillac and Subaru, GMC and Buick dealerships, all in Sherman Oaks. "You make all your margin fixing cars" — that is, through repair and warranty service.

EVs' maintenance costs are as much as one-third lower than those of conventional cars; however, they have fewer moving parts or mechanical systems that are expensive to fix or replace,

➲ **AUTO DEALERS** — *continued on page 39*

The federal tax credit of up to $7,500 has phased out for GM cars such as the Bolt because the company sold more than 200,000 EVs, but other subsidies and rebates are available from General Motors, utilities and retailers such as Costco; Dwayne Chew, one of Holter's sales staff, says that he has managed to cobble together breaks worth as much as $12,000 for customers.

➲ **AUTO DEALERS** — *continued from page 38*

such as transmissions. (The largest potential cost, which is replacing the battery, doesn't factor in until relatively late in an EV's life; the warranty on the Bolt's battery covers eight years or 100,000 miles.)

One of the problems with the business model," Drake told me, "is that if you take away the service, the cost of the car is going to have to go up just because the warranty charges subsidize the front end. Guys are going to have to make more selling an EV because they're going to make less fixing it."

Drake, who describes himself as "way more progressive than most dealers on EVs" and autonomous vehicles, expects the physical footprint of auto dealerships to shrink as they cut back their service departments. That could be a source of revenue for those that own their locations. "A lot of this really expensive real estate will be repurposed somehow."

Dealers such as Drake and Holter — a member of a dealer advisory council on EVs for General Motors — believe that one thing holding back EV sales is a lack of inventory. "Every month we've sold every Bolt we have and asked for more," Holter says.

Many prospective Bolt buyers are well-versed in the car's features by the time they walk in the door. Still, they typically represent the core market for EVs — they're relatively affluent and educated and have access to charging because they live in single-family housing.

Expanding the market means reaching out to a new customer base for EVs. Addressing those challenges is Holter's goal in bringing his staff together for the weekly seminars.

"The idea is to make them confident to answer questions people have," Holter says. "The more they can do that, the more we can break into the large market of people who haven't bought EVs."

A knowledgeable sales force is key because EV buying and ownership involve complexities that don't exist with conventional cars. EV owners need to think about time-of-use rates from the electrical utilities, allowing them to charge their vehicles during lower-priced off-peak hours.

There's a dizzying variety of rebates. The standard California state subsidy is $2,000 on a Bolt, but $4,500 for families with income less than 300% of the federal poverty line, or $78,600 for a family of four.

The federal tax credit of up to $7,500 has phased out for GM cars such as the Bolt because the company sold more than 200,000 EVs, but other subsidies and rebates are available from General Motors, utilities and retailers such as Costco; Dwayne Chew, one of Holter's sales staff, says that he has managed to cobble together breaks worth as much as $12,000 for customers.

Then there's driving technique, a consideration irrelevant to owners of gasoline-powered cars. The Bolt has a regenerative braking feature, which reduces wear and tear on the friction brakes while generating electricity to charge the battery. The feature works best in stop-and-go traffic.

Chew, who drives a Bolt to Felix from his home in Carson, says that he can reduce the need to recharge his car to as seldom as once a week by taking surface streets. "I tell my customers, 'You need to drive the car a lot smarter.'"

Sell smarter too. Even within big automakers such as General Motors, executives are becoming convinced that a wave of EV ownership is coming. The industry is standing on the edge of the water. Dealers are coming around to the idea that the time has come to get their feet wet. ⊙

California Wildfire Smoke Regulations

The State of California enacted an emergency regulation in 2019 to protect employees from hazards related to wildfire smoke (https://www.dir.ca.gov/dosh/doshreg/Protection-from-Wildfire-Smoke/Wildfire-smoke-emergency-standard.html). The emergency regulation is in effect until Jan. 20, 2021 (https://www.dir.ca.gov/oshsb/Protection-from-Wildfire-Smoke-Emergency.html) with the possibility of extension. The regulation requires employers to act when the Air Quality Index (AQI) for airborne particulate matter (PM 2.5) is 151 or greater. See Note, at end of article. Outdoor occupations such as agriculture, construction, landscaping, and shops with open layouts are affected. Also, when an employee spends one hour or more outside over a shift, they must comply with this regulation. High traffic areas, such as the showroom, where the front doors are opened frequently, are also impacted.

Action Needed: At the beginning of the shift and periodically after that, the employer must check the AQI for PM 2.5. Look for AQI data in real-time at www.airnow.gov and use your zip code. Smartphones under the Weather app also provide the AQI data. If employees may be exposed to wildfire smoke, the employer must find out the current AQI applicable to the worksite. If the current AQI for PM2.5 is 151 or more, the employer is required to:

- Check the current AQI before and periodically during each shift.
- Provide training to employees.
- Lower employee exposures.
- Provide respirators and encourage their use.

The action taken by the employer may consist of engineering control and/or administrative controls. Engineering control would be placing the employees in a building with an air filtration system

➲ **CALIFORNIA WILDFIRE** — *continued on page 41*

Training should include how employees can obtain air quality information and medical treatment, if necessary. Employers should establish a method for employees to inform them about worsening air quality and related adverse health effects. The public address system at the dealership should suffice.

CALIFORNIA WILDFIRE — *continued from page 40*

that reduces the PM 2.5 below 150. Cal/OSHA standard Title 8 CCR Section 5141.1 lists the enforcement based on the AQI as follows:

- **AQI at or below 150:** Generally normal. Wildfire smoke regulation does not apply.
- **AQI of 151-500:** N95 respirator use is voluntary. Employees with certain health conditions need to follow medical guidance.
- **AQI exceeds 500:** Employees must use N95 respirator with training and management.

Respirators: Respirators must be provided to employees when both engineering and administrative controls are not feasible. The N95 disposable particulate type respirator to protect employees is available for about $5/mask through various distributors. Safe use, maintenance and product limitations noted on the box of respirators must be reviewed. Cal/OSHA regulations https://www.dir.ca.gov/title8/5144d.html (Appendix D) have a specific memo on the usage of such respirators that must be reviewed as well.

Training: The employees must be trained on the new regulation, including wildfire smoke's health effects. USE ATTACHED MEMO. Information at www.airnow.gov may be utilized to train employees and those at higher risk of health issues related to wildfire smoke. Training should include how employees can obtain air quality information and medical treatment, if necessary. Employers should establish a method for employees to inform them about worsening air quality and related adverse health effects. The public address system at the dealership should suffice.

Note: PM 2.5 refers to tiny particles or droplets in the air that are 2.5 microns or less in width. Like inches, meters and miles, a micron is a unit of measurement for distance. There are about 25,000 microns in an inch. The widths of the larger particles in the PM 2.5 size range would be about thirty times smaller than that of a human hair.

DISCLAIMER: The contents of this newsletter are merely for informational purposes only and are not to be considered as professional advice. Employers must consult their lawyer for legal matters and EPA/OSHA consultants for matters related to Environmental, Health & Safety. This article was authored by Sam Celly of Celly Services, Inc. who has been helping automobile dealers comply with EPA and OSHA regulations since 1987. Sam received his BE (1984) and MS (1986) in Chemical Engineering, followed by a J.D. from Southwestern University School of Law (1997). Our newsletters can be accessed at www.epaoshablog.com. Your comments/ questions are always welcome. Please send them to sam@cellyservices.com.

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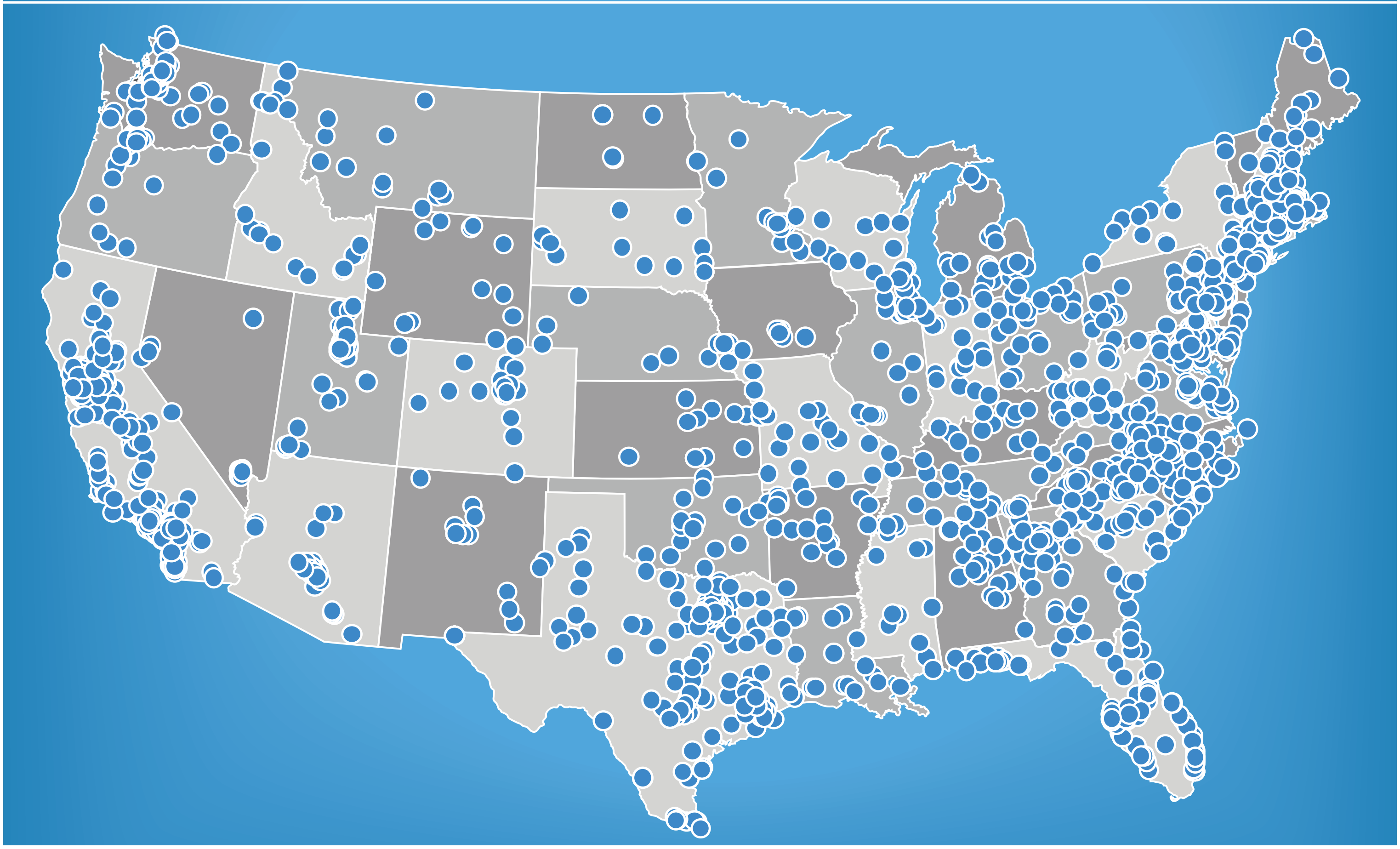

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