Bill would delay new overtime pay rule for 6 months

Legislation to delay for six months the implementation date of the new overtime rules for workers passed the U.S. House in late September. It now is before the Senate, which is scheduled to meet for just 24 more days this year.

House Resolution 6094 would push back the start date of the U.S. Department of Labor’s rule on overtime pay, scheduled to take effect Dec. 1. The new rule is expected to impact more than 4 million workers within the first year of implementation.

That’s creating a lot of buzz, but also a lot of confusion about who will qualify for additional pay.

The new rule doubles the salary threshold for overtime eligibility and requires automatic adjustments every three years.

Concerns have been raised that the rule change will stifle workplace flexibility and opportunity, impose significant burdens on small businesses, jeopardize crucial nonprofit services, and increase the cost of higher education. To prevent these consequences, backers of H.R. 6094 said the Labor Department should withdraw its rule and work to responsibly modernize the nation’s overtime rules.

However, the department has refused to heed these concerns and plans to implement the rule on Dec. 1.

The National Automobile Dealers Association, which supports H.R. 6094, said delaying implementation of the rule by six months would provide workers, small businesses, nonprofits and colleges and universities more time to prepare for dramatic changes brought on by the department’s final rule.

Families still need help after Louisiana flooding

Seven weeks after the devastating floods that swept through southern Louisiana, financial assistance for hundreds of dealership employees and their families is still needed.

Jeff Carlson, the 2016 chairman of the National Automobile Dealers Association, visited All Star Ford in Denham Springs, La., to survey the flood damage more than a month after the storm, which has been categorized as the worst U.S. natural disaster since 2012.

“You don’t realize the magnitude of the damage until you see it for yourself,” Carlson said.

“Here’s the ask: I would like for you to do what we have done,” said Carlson, in a plea to dealers across the country to donate to the National Automobile Dealers Charitable Foundation’s Emergency Relief Fund. “Each of my dealerships has adopted a family and contributed $1,000 per store to the charitable foundation, so that we can help people restore their lives down here in the Baton

How amended MLA Regulation affects dealers

The Department of Defense recently amended a regulation known as the Military Lending Act Regulation, which imposes certain restrictions and requirements on creditors — including, potentially, auto dealers — when they extend credit to service members and their dependents.

Significantly, the amended regulation, which took effect Oct. 3, excludes from its coverage “any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased.” On its face, this exclusion would seem to address any claim that the MLA Regulation applies to auto dealers originating motor vehicle financing.

However, a recent Defense Department interpretation of a separate exclusion to these requirements has
Dealership revenues, earnings up in latest NADA analysis

Weekly earnings at U.S. new-car dealerships in 2015 were up an average $1,341, or 1.4 percent, compared to the previous year, according to the latest Dealership Workplace Study, which is administered by the National Automobile Dealers Association.

The analysis showed growth rates in the service and parts departments ranging from 6.7 percent to 8.2 percent. Average weekly earnings for sales consultants grew 2.7 percent year-over-year.

The NADA study, now in its fifth year, continues to show a U.S. retail-auto industry with strong growth and earnings opportunities. Other findings:

- Overall employee turnover rate was 39 percent, which was relatively unchanged year-over-year and still well below the U.S. private sector average of 46 percent.
- Dealership productivity, measured as gross profit per employee, increased 0.4 percent, to $8,446.
- Millennials comprised 42 percent of all new-car dealership employees, up from 38 percent in 2014. Millennials represented 60 percent of new hires at new-car dealerships, and that percentage is expected to continue to increase in the future.
- The ratio of women working at new-car dealerships was 18.6 percent, a slight increase in 2015. Women accounted for 20 percent of all new hires in 2015, the same figure reported the previous year.

Fisker launches electric car company

Henrik Fisker, whose previous automotive venture collapsed in 2013 owing U.S. taxpayers $139 million, said Oct. 4 he plans to launch a new electric car company next year to compete with Tesla.

Fisker declined to say who is funding his new California-based venture, called Fisker Inc.; and a new battery subsidiary, Fisker Nanotech.

The Danish automotive designer’s previous venture, Fisker Automotive, once was a rival to Tesla Motors in the nascent market for electric luxury cars. Founded in 2007, Fisker Automotive built fewer than 2,000 cars through 2012 while burning through $1.4 billion in private investments and taxpayer-funded loans from the U.S. Department of Energy. Fisker left the company in March 2013, before it filed for bankruptcy protection.

In 2014, Fisker was purchased out of bankruptcy by Chinese auto parts maker Wanxiang Group, and renamed Karma Automotive. Wanxiang also acquired bankrupt U.S. battery maker A123. It relaunched the Fisker Karma gasoline-electric hybrid sports car in August as the Karma Revero.

The NADA study analyzed more than 385,000 payroll records from 1,956 new-car and -truck dealerships. Each dealership provided information on sales volume, work schedules and employee benefits. The report, Automotive Retail: National & Regional Trends in Compensation, Benefits & Retention, also provides comparisons by luxury and non-luxury dealer franchises.

Dealers who provided input to the study will obtain a complimentary copy of the results. Nonparticipants can buy the report by calling (800) 557-6232.

Relief fund

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Rouge area.”

Matt McKay, president of All Star Ford, said 130 out of his 800 employees at 11 dealerships, lost their homes. “It’s gone. It’s totaled. “About 70 percent of my employees lost their cars.”

“We’re working very hard trying to identify the ones who’ve had the biggest problems and visit with them first to try and help them with their paperwork, with the state, with FEMA and all those things,” McKay added. “Just to have a light at the end of the tunnel.”

Will Green, president of the Louisiana Automobile Dealers Association, added that donations to the NADA Foundation are critical to help dealership employees get back to work quickly and establish normalcy.

“Donations are not only vital now, but it’s vital to have a resource always and to have it solvent with funds readily available to help people quickly,” Green said.

The CATA donated $10,000 to the relief fund following the flooding.

To donate, visit www.nada.org/emergencyrelief or call (703) 821-7233. Personal or corporate checks can be mailed to NADCF Emergency Fund, c/o NADCF, 8400 Westpark Drive, Tysons, VA 22102. (Donations to the NADA Foundation are generally tax-deductible; contributors should consult their tax advisors for details.)
Future auto regulations are ‘flawed,’ industry group says

An automotive industry trade group said two federal agencies erred in a July draft report that concludes automakers are on track to meet future mileage and emissions standards and complained that the industry and public should be given more time to comment.

The Alliance of Automobile Manufacturers said the U.S. Environmental Protection Agency and the National Highway Traffic Safety Administration were “overly optimistic” and relied on “flawed assumptions” about automaker readiness to meet aggressive 2022 to 2025 gas-mileage targets meant to jolt the economy and reduce carbon emissions. The standards, referred to as Corporate Average Fuel Economy standards, were adopted in 2012.

The draft report “relies on flawed assumptions and modeling that cast an overly optimistic picture — one that does not accurately reflect consumer and market reality,” the Alliance said Sept. 26.

The government report and the 60-day comment period that expired that day are part of a “midterm evaluation” of fuel economy and greenhouse gas emission regulations. The agencies must adopt a final rule on the regulations by April 2018. The Alliance asked the NHTSA and the U.S. EPA for more time but that request was denied.

The Alliance said the existing regulations were crafted at a time when gas prices were higher than they are now and are based on assumptions about consumer buying preferences that have changed in recent years. Sales of cars have dropped in recent years while sales of crossovers and SUVs have soared as they have become more fuel efficient.

“It’s important to get the Midterm Evaluation right,” the Alliance said in its comments. “If proposed standards are inconsistent with consumer behavior, we’ll jeopardize the health of this industry, cost thousands of jobs, diminish environmental gains and sacrifice improved safety outcomes.”

The NHTSA sharply disagrees, and says the industry has proven it can meet the 50.8 miles-per-gallon standard for cars and light-duty trucks by 2025.

During Congressional testimony last month, NHTSA Chief Counsel Paul Hemmersbaugh said the automotive industry has proven over the past four years that it is able to develop innovative gas, electric and hybrid technology to meet higher regulatory standards.

“Our new analysis confirms that the standards can be met largely with more efficient gasoline-powered cars,” Hemmersbaugh said in his prepared testimony.

He said the industry is poised to make additional gains with even more fuel efficient gasoline engines as well as with higher sales of hybrids such as the Toyota Prius and electric cars such as the electric Chevy Bolt, which goes into production this month.

“In fact, many of today’s vehicle models ... are meeting future targets several years ahead of schedule,” he said.

U.S. Rep Fred Upton, R-Michigan, in September urged regulators to consider the potential damage that tougher auto regulations could have on the industry if the future standards are not dialed back.

“The industry is doing well now, thanks in large part to pent-up demand after the last recession and very low interest rates that make financing about as cheap as it has ever been,” Upton said during a Congressional hearing that he chaired. “But these two temporary factors will not last, and the industry will be stuck with these costly standards that increase every year.”

The Center for Automotive Research, in Ann Arbor, Mich., also said that current vehicle fuel-economy requirements could harm the industry.

The nonpartisan organization concluded that U.S. auto factories and parts operations could slash up to 137,900 jobs through 2025 if the federal government’s existing CAFE standards remain in effect.

“If the value of fuel savings to the new-vehicle buyer falls short of the cost of mandated fuel-economy technologies, then U.S. automotive sales, production and manufacturing will fall with serious consequences for the U.S. economy,” CAR researchers Sean McAlinden, Yen Chen, Michael Schultz and David Andrea said in a statement.

Falling credit approvals for car leases not necessarily a bad thing?

The number of people being turned down for automobile leases due to poor credit has been growing since the beginning of the year and hit its highest point in August, according to a company that tracks that market, even though lending institutions have loosened up credit standards in recent years for car leases and purchases.

The credit approval rate of 57.7 percent for car leases in August was the lowest rate seen in 2016 and the lowest for an August in the past two years, reported Swapalease.com, a Cincinnati-based company that matches people who want out of their existing contract with shoppers looking to take over a short-term lease. By comparison, the approval rate for August 2015 reached 85.7 percent.

Still, car sales and demand for leases have been strong in recent years, and even the recent slip in credit approvals may not be a setback.
The Chicago Automobile Trade Association in September presented a $1,500 check to the Three Fires Council of Boy Scouts of America, as part of its Chicagoland Dealers Care initiative. Joe Cotton Ford previously contributed $2,000 to the cause and helped advocate for the additional funds from Chicagoland’s new-car dealer association.

The Chicagoland Dealers Care program was created by the CATA to support member dealers’ charitable community initiatives by providing additional financial support and advocacy to those in need.

“We’re grateful for all that CATA dealers do to lend support to their community, and our mission is to amplify those efforts,” said CATA Director Jay Hopkins. “Donating to the Boy Scouts of America is the perfect fit as it aims to impact local communities, and that’s exactly the role that CATA dealers play. Dealers are often first to be solicited for support from their neighbors, and they’re happy to help. However, often times, those stories aren’t told.”

The contributions from the CATA and Joe Cotton Ford will directly support the Three Fires Council’s wide range of programs and services that help the well-established organization successfully train its volunteers, recruit more children, and support the rich programs the council offers.

In its 106th year, the Boy Scouts of America is nationally acknowledged, but most are surprised to learn that the funds raised locally stay local.

“We’re so thankful for both the CATA’s and Joe Cotton Ford’s contributions to help local scouts,” said Three Fires Council District Director Amy Seyller. “These funds will allow us to put better resources into creating programs that impact our community’s youth.”

The relationship between Joe Cotton Ford and the Three Fires Council hits close to home. Joe Cotton Ford Community Relations Manager Pam Conn’s son is deeply rooted in the Boy Scouts of America and continues to serve the community in which he resides – even as an adult.

“It’s amazing what these scouts do for their communities, and how invested they become in their individual projects,” said Conn. “Three Fires Council provides these kids with leadership skills from a young age and the opportunity to work hand-in-hand with adults. Not only is it a fantastic resume builder, but it instills in them at a young age the importance of giving back to their communities.”

The CATA has been a longtime supporter of local nonprofit organizations. Since its inception in 2008, the Chicagoland Dealers Care program has donated nearly $95,000 to local charitable organizations.

MLA

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caused some commentators to question whether the department views the motor vehicle exclusion as narrow in scope and only applicable to the financing of the motor vehicle itself (as opposed to the financing of the motor vehicle as well as other related items that are financed with the motor vehicle).

Officials at the Defense Department have been unwilling to clarify its view regarding the scope of the exclusion for motor vehicle financing.

Some finance sources that take assignment of credit contracts from dealers no doubt have been communicating to dealers regarding this topic. To assist dealers who receive such communications, the National Automobile Dealers Association asked an expert law firm to prepare a general analysis of the scope of the motor vehicle financing exclusion from the MLA Regulation.

In “Are Auto Dealers Required to Comply with the Amended Military Lending Act Regulation?”, Andrew Smith of Covington & Burling LLP outlines the compelling arguments supporting why (i) the motor vehicle financing exclusion covers the financing of a motor vehicle as well as other related items; and (ii) consequently, the restrictions and requirements imposed by the amended regulation should not be applicable to auto dealers who engage in such financing.

Note certain caveats that Smith identifies in his article:

• The article is generic and not intended as legal advice to individual dealers;
• It therefore is essential that dealers consult their own counsel for legal advice concerning whether and to what extent the amended MLA Regulation applies to their individual operations;
• As noted, finance sources that participate in indirect vehicle financing may have a different view on this matter and, as such, may communicate to dealers certain actions they require dealers to perform and/or refrain from as it relates to credit contracts dealers assign to them; and
• Most significantly, there is no guarantee that courts, administrative agencies, or others reviewing this issue will agree with the article regarding the scope of the motor vehicle financing exception and whether the amended MLA Regulation applies to dealer operations.

The NADA will continue to monitor this situation and provide further updates when circumstances dictate or additional relevant information becomes available.