New Year law to snuff workplace butts
Fines start at $100 for smoker, $250 for business

Illinois on Jan. 1 becomes the 22nd state to enact a law against smoking at workplaces. It will be one of the nation’s strongest such laws, and it supersedes Chicago’s smoking ban, which gave bars and restaurants until July 1 to comply.

It will be prohibited to smoke inside all public places and most places of employment, or within 15 feet of any entrance to those places. Retail tobacco stores and some other places are exempt from the new law. Also, no person may smoke in any vehicle owned, leased, or operated by the state government or a political subdivision.

Employers must conspicuously post at all entrances “No Smoking” signs or the international no-smoking symbol—cigarette within red circle and diagonal red line—and remove all ashtrays from any area where smoking is prohibited.

A person who smokes in an area where smoking is prohibited shall be fined not less than $100 and not more than $250. The business owner shall be fined not less than $250 for the first violation, not less than $500 for the second violation within one year after the first violation, and not less than $2,500 for each additional violation within one year after the first violation.

Secondhand tobacco smoke—which can cause heart disease, stroke, cancer, among other maladies—is the third leading cause of preventable death in the United States. It kills at least 65,000 deaths annually, according to the National Cancer Institute.

The U.S. Surgeon General’s ‘06 report determined there is no risk-free level of exposure to secondhand smoke.

But implementing the law during the coldest month of the year could lead to exposure to frostbite. That has provided a greater sense of urgency to some who want to quit smoking.

“There are always people who decide to quit on New Year’s, and the ban provides much more of an impetus,” said Joel Africk, president of the Respiratory Health Association of Metropolitan Chicago. “It’s the golden opportunity.”

There is not yet proof that such bans have a direct effect on adult smoking rates, but the rates have dropped significantly in places where the bans were combined with high cigarette taxes and anti-tobacco advertising, said Michael Siegel, a professor at Boston University, who has done extensive research on the subject.

Africk said the combined cigarette tax for Chicago, Cook County and Illinois—$3.66 a pack—is the highest in the nation.

Consider ‘adopting’ a school for 2008

Chicago Auto Show

Dealerships can plant a benevolent seed with students by sponsoring a school group’s visit to the 2008 Chicago Auto Show. The measure can be a community relations plum and establish customer loyalty with young consumers.

Under the Adopt-A-School Program, a dealer can purchase tickets at $5 each for students in a group. There is no minimum or maximum potential group size. See the flyer in this newsletter.

High schoolers at or near driving age are logical students for a dealership to pair itself with. There are hundreds and hundreds of high schools in the Chicago area, probably more than one within each dealer’s relevant market area.

Bill Stasek, proprietor of Bill Stasek Chevrolet in Wheeling, last year sponsored more than 100 students each from nearby Buffalo Grove High School, John Hersey High School in Arlington Heights, and Vanguard School in Wheeling. Accompanying chaperones are admitted at no charge.

“The schools look forward to the auto show so much, and they wouldn’t
NHTSA adjusts tire-info rule

Dealers who replace tires on a new vehicle before it is sold must affix new labels, if the new tires have a size or cold inflation pressure different from the original, following National Highway Traffic Safety Administration action this month.

A revised TREAD Act Tire Label also must be affixed on the pillar behind or on the driver’s door if a dealer adds parts of accessories to a vehicle before its first sale, if those add-ons exceed the lesser of 100 pounds or 1.5 percent of the vehicle’s weight.

Any reasonable means can be used to determine the accurate weight of any add-on, including scales or references to a part’s shipping weight.

Re-labeling is not required when changes reduce a new vehicle’s weight or when any changes involve used vehicles. These last three clarifications significantly reduce the re-labeling burden dealerships would otherwise have faced under the NHTSA’s 2005 rule.

Dealers can re-label in one of three ways:
1. Place a new label with new information on top of the existing label.
2. Modify the existing label with the new tire or weight information.
3. For weight changes only, place a supplementary label (see below) adjacent to the original tire label.

Replacement placards pictured below (not to scale) are available from OEMs, form companies, aftermarket parts and equipment suppliers and through the National Truck and Equipment Association and the Specialty Equipment Market Association.

Creditors list 1,758 pages long
Money-back guarantee lawsuit bankrupts Kansas City dealership

A Kansas City dealer filed for Chapter 7 bankruptcy this month after a “100 percent money-back guarantee” the dealership offered on vehicle service contracts led to a $7.8 million verdict in a class-action lawsuit.

The named plaintiffs, Keith and Deborah Shackelford, bought a 1995 Honda Accord from John Chezik Honda in 1999. They also bought a 3-year, 36,000-mile service contract for $1,335, which Chezik representatives said would be refunded in full if no claims were made on it.

The Shackelfords said they made no claims against the contract. But when they returned to the dealership in 2002 to request their refund, they alleged they were told the money-back guarantee applied only if the contract owner bought an additional vehicle from Chezik.

The dealership eventually offered to refund the Shackelfords’ money after talks with their lawyers, but refused to pay legal fees and other costs, prompting them to sue.

The Chezik dealerships have been sold, so no active franchises or their assets are involved. But Chezik’s remaining corporate entity was forced to seek bankruptcy as the only option against a list of creditors reported to be 1,758 pages long.

The suit’s class consisted of 1,186 customers who bought contracts from Jan. 1, 1997 to Dec. 22, 2003. Jurors initially awarded $8.4 million, but Missouri law adjusted the amount given for punitive damages.

Chezik’s attorney, Robert Jester, said the legal system failed the 25-year-old dealership. Jester also blamed the auto industry’s reliance on commission-based paychecks, which he said encourages salespeople to do “things that are not in the corporation’s best interest to generate income.”
Top introductory components of a dealership employee handbook

Franczek Sullivan, the CATA’s labor relations counsel, has developed an Employee Relations Handbook Starter Kit for auto dealers. As its name suggests, the Starter Kit offers a running start on the process of developing an employee handbook.

“We strongly recommend employee handbooks that are accurate and communicate effectively to all employees,” said Franczek Sullivan’s Dave Radelet. “At the same time, it can be a serious mistake for dealers to simply copy a model employee handbook obtained from an outside source without working through the various policies and customizing the handbook to their dealership.”

The Starter Kit provides sample language for a number of topics and examines various issues that often are handled differently by different dealers. The Starter Kit, which is designed to comply with applicable Illinois and federal law, is available to CATA members for $500. Call Mary Casto at Franczek Sullivan at 312-986-0300.

According to the NADA, more policies are becoming standard components of effective employee handbooks and usually are part of introductory material. Some share the dealership’s philosophy; others just make good legal sense.

**Welcome Letter, signed by dealer**

This conveys a sense of team spirit and cooperation. Be supportive and appreciative of current employees and offer a warm welcome to newcomers.

**Dealership History**

This educates employees about the company origins. Be sure to mention awards and community recognition.

**Introductory Statement and “At-will Disclaimer”**

This statement explains that the handbook is an informational guide for employees and does not create a binding contract. It also helps the employer retain his ability to terminate employees “at-will” (i.e., with or without cause) to the extent possible under federal, state, and local laws. The statement should cover the following points:

1. State the date the handbook becomes effective and that it replaces all previous handbooks and policies.
2. Clearly state that policies outlined in the handbook in no way constitute a contract and that they should not be considered as such.
3. Explain the dealership’s policy of “at will” employment, i.e., that the employee may end his/her employment at any time and for any reason and that the employer has the right to terminate the employee at any time and for any reason within the constraints of federal, state and local laws.
4. Finally, state that only the dealer (or a person the dealer specifically designates) has the authority to enter into an agreement of employment for any specified period of time or to make any promises of continued or permanent employment.

OSHA rule addresses who pays for protective equipment

The Occupational Safety and Health Administration has issued a rule clarifying employer and employee responsibilities for the payment of personal protective equipment (PPE), said David Westcott, chairman of the regulatory affairs committee of the National Automobile Dealers Association.

The rule:

1. mandates that dealerships pay for most PPE required by OSHA’s standards and creates a clear and consistent policy to reduce confusion regarding what dealerships need not pay for.
2. creates no new requirements regarding what PPE dealerships must provide to employees. Dealerships need not pay for uniforms, items worn for cleanliness, and other items that are not PPE. They also need not pay for most safety-toe footwear, prescription safety eyewear, everyday clothing, and weather-related gear.
3. states that though dealerships cannot require employees to provide their own PPE, employees who do so are not entitled to reimbursement. On the other hand, dealerships must ensure the adequacy of any employee-provided PPE to protect against workplace hazards.
4. indicates dealerships needn’t pay to replace lost or intentionally damaged PPE.

Westcott said the NADA intends to issue more comprehensive guidance before those dates.

New EPA rule

Effective Dec. 31, all new HFC-134a machines manufactured or imported for sale in the U.S. must meet tighter industry standards expected to improve their ability to capture and recycle refrigerants by 30 percent to 50 percent.

David Westcott, chairman of the NADA Regulatory Affairs Committee, said the new EPA rule doesn’t require service shops to replace their existing HFC-134a refrigerant machines.

But the NADA suggests that when purchasing new machines, dealerships ensure they meet standard SAE J2788, which is incorporated into the EPA’s rule.

**Marketplace**

**Parts Manager** 26 years’ dealership experience with broad responsibilities. Excellent customer relations and supervisory skills, ability to increase parts sales and revenue. Imports and domestics.

Bill Krueger, 630-968-5572. Résumé on file at the CATA.
**Gifts for car lovers**

Shopping for the car lover who has everything? How 'bout a coffee machine operated by a lever that is a reproduction of the famous Lamborghini gear stick? Yes, it goes for $1,815, but shipping is free.

Producers of the Tonino Lamborghini coffeemaker, limited to 1,000 machines, bill it as “a piece of coffee history.”

Each machine is engraved with a number, year of manufacture, and signed by Tonino Lamborghini, who markets designer clothing and accessories and is the son of the late Ferruccio Lamborghini, founder of the carmaker brand.

Other car-lover gift suggestions compiled by the L.A. Times: McQuiar’s Ultimate Car Care Kit, which includes scratch remover, polymer car wax, cleaners for the wheels and tires, and even an interior detailer spray that works on leather and sat-nav screens alike.

And for bookworms: “McQueen’s Machines,” by Matt Stone. Quite the gearhead, Steve McQueen collected everything from motorbikes to planes, and plenty of exotic cars in between. The book includes plenty of photos and anecdotes.

**California court stops SSN ‘no-match’ letters**

An October opinion by the U.S. District Court for the Northern District of California effectively halted the Department of Homeland Security’s issuance of “no-match” letters, which took effect in September.

Dealerships were to receive “no-match” letters from the Social Security Administration and the DHS when employee names or Social Security Number (SSN) information on I-9 Employment Eligibility Verification or W-2 forms do not match government records.

But the California court-issued preliminary injunction raised concerns about the procedures employers must use to verify the immigration status of new hires when a discrepancy or “no-match” is identified.

The DHS has indicated that, although it has not ruled out an appeal, it is considering revisions to the rule designed to address the court’s concerns.

Meanwhile, all employers must continue to verify the immigration status of new employees using the I-9 Employment Eligibility Verification Form (I-9). Earlier this month, the U.S. Citizenship and Immigration Services (USCIS) revised the I-9 and updated its publication, “Handbook for Employers, Instructions for Completing the Form I-9.”

Among the most significant changes, the USCIS removed five documents from the “acceptable” list for verifying ID and employment eligibility because they are easily tampered with and can be counterfeited.

In its original form, if employee SSN discrepancies persisted, the dealership would have to terminate the subject employee or risk a finding by the DHS that it had constructive knowledge of an illegal alien being employed.

Dealers can direct questions to the regulatory affairs division of the NADA, at 703-821-7040.

**Credit card receipt violations bring FACT Act suits**

Class action lawsuits are increasing against businesses that fail to truncate credit card information on receipts, as called for by the Fair and Accurate Credit Card Transaction Act of 2003.

Businesses are required to shorten, or truncate, account information so that not more than the last five digits of the card are displayed. Also, the expiration date must be omitted.

Most electronic card machines have been modified for the account number change, but too many still display the card’s expiration date.

Important, the requirements apply only to electronically printed receipts, not to handwritten or imprinted receipts; and to receipts given to the customer at the point of sale, not to receipts retained by the business.

The law allows for harmed customers to seek damages and attorneys fees. Also, noncompliance can result in FTC enforcement action that could include assessing monetary penalties against the business.

**Adopt**

Continued from Page 1

be able to go without this program,” Stasek said. “They really appreciate it, so it creates a lot of goodwill with the schools.”

In the program, dealers contact a school’s principal or assistant principal to arrange the weekday field trip. Stasek met the groups at McCormick Place and even popped for lunches for everyone.

Dealers interested in “adopting” a school should contact the CATA's Donna Young for more details, at 630-424-6045.

**Congratulations!**

Glendale Kia’s Omnik Mehrabian is one of 10 Kia retailers inducted into the 2007 President’s Club by Kia Motor Finance Co.