



DEALER

The Newsletter of NORTHEAST EQUIPMENT DEALERS ASSOCIATION, INC.

Workforce Development/ Apprenticeship Update

Perhaps I'm just getting old, spending too much time behind the wheel (frankly I don't know why), but I've found myself thinking about the age-old question: "What comes first? The chicken or the egg?". Why even think about it? What does the question/answer have to do with my dealership and my dealer's association? Demographics.

According to the US Dept. of Labor's labor force projections to 2024, the labor force is growing, but slowly! (<https://www.bls.gov/opub/mlr/2015/article/labor-force-projections-to-2024.htm>) "The labor force is projected to grow over the next 10 years at an average annual rate of 0.5 percent, a slower rate than in recent decades." Limiting factors include *slower population growth*, aging of the U.S. population, and a *declining labor force participation rate*. A smaller pool means intensified competition for qualified employees. We've got to build a bigger, better funnel if we're going to be able to find and hire the best possible candidates to staff our dealerships. We need to upgrade our chickens!

In a recent presentation, the North Carolina Community College System noted that, taken alone in the U.S., manufacturing would be the ninth largest economy in the world. They then went on to note that the average manufacturing worker earned \$82,023.00 annually (including pay and benefits). Manufacturing is just one of the many industries "we" compete with for the same labor pool. That same presentation went on to lay out their recruitment strategy. It begins in middle school (grades 5-8) with a focus on informing students, followed by a focus on concentrating skills in high school and honing skills via postsecondary and credentialing programs such as apprenticeship. **Your association is working hard to build tools that your dealerships can use to follow that same model.** We have a great story to tell and it's time that more students, parents, and guidance counselors knew that family-sustaining wages and fulfilling careers abound at our dealerships.

With the help and support of Messick's (**thank you Ed & Eddie!**), the Pennsylvania Friends of Agriculture Foundation (supported by the PA Farm Bureau), and staff from other dealers participating in our apprenticeship program, we created an insert for the Pennsylvania Farm Bureau's winter magazine. The insert is **intended to help middle school students and their parents to explore a career as an "Equipment Detective"**. We felt that it was important (and exciting) to begin the process of introducing students and parents to some of the language that technicians and engineers use to communicate (schematics) and begin the exploration of diagnostic theory. Both are important steps along the

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You may also visit us at www.haylor.com/NEDA

Observations from the **FIELD**

This month we decided to try an experiment: rather than trying to fit “everything” into one article, we thought publishing a separate article focused on our Workforce Development and Apprenticeship programming might be a good idea. Please let us know if you prefer one or two articles.

Last month, I continued sharing some of the association’s successes, focusing specifically on our efforts advocating against **right-to-repair**, what the potential impacts might be should legislation be enacted – and why you should care! If you didn’t get a chance to read the article, please take a few minutes to review last month’s column. Please also ensure your staff is up to speed as well. Particularly your sales and service staff; they need to know how and when to use the liability release/trade-in forms posted on the association website.

Since that article was published, we have learned that a co-sponsorship memo is circulating in the Pennsylvania House and that PenPIRG (a reasonably effective consumer advocacy group in Harrisburg) has made enacting Right-2-Repair legislation a priority. To be sure, their PR campaign has begun (<https://www.penncapital-star.com/commentary/right-to-repair-has-hit-pa-heres-why-it-could-be-the-next-big-legislative-fight-wednesday-morning-coffee/>). **Rest assured NEDA, EDA, AED and AEM are all committed advocating against the legislation.**

That being said, legislators aren’t particularly interested in hearing from lobbyist, manufacturers, and associations, they want to hear from you their constituents! **Our success, or failure, is directly tied to the level of dealer participation.** A personal phone call, letter, e-mail, visit, an invitation to tour your dealership is often the difference between legislators enacting laws in “your” favor or not. PLEASE help us help you! Proof of that model is in our success pushing back/defeating legislation in Maine – well done! Unfortunately, we still have work to do in MA, NH, NJ, NY and VT this year. CT has a right to repair bill limiting motor vehicles, which we’re also watching.

Although it’s been an expensive and difficult haul, we continue to push for updates to state equipment dealer laws with our primary focus updates to provisions related to dealer purity, termination, warranty, succession/transfer/sale and changes to a dealer’s competitive circumstances. I hope that by the time this article goes to press that we’ll have at least one bill introduced...hopefully more!

Another issue that we’re beginning to find some traction on is access to the interstate highway system in Pennsylvania for over-width loads via an exemption or annual permit. We’ve had two productive meetings and have received a warm reception to the premise. That being said, it is going to take a significant amount of work and participation from dealers to see those changes made.

As always, **“When we speak in a unified voice, we can achieve what individuals could not; the ability to attain our mutual goals.”** It goes without saying that the more voices we have, the more successful we will be!

When you REAP the benefits of membership your PROFITS will follow!



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Field Director / Legislative
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ASSOCIATION NEWS

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<i>*'EV' Lamb also serves on the NEDA's Workers Compensation Safety Group 548 as Chairman</i>		
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Dealer-Manufacturer Relations Survey Is Underway



The Equipment Dealers Association (EDA) has launched its annual Dealer-Manufacturer Relations Survey Questionnaire for dealer input. This survey provides dealers the opportunity to rate the manufacturers they do business with. Responses are compiled anonymously and distributed to manufacturers and dealers for comparison, analysis and review. The survey results are helpful in the association's discussion with manufacturers to help identify and address issues of concern. Please respond to the email request you received from EDA last week. If you have not received one, request your link at surveys@equipmentdealer.org



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In Memoriam

Russell C. Carpenter, true gentleman, responsible citizen, neighbor and friend, and selfless public servant, died peacefully Saturday February 22nd in Albany Medical Center surrounded by his entire family. He suffered an inoperable aneurysm the previous afternoon while preparing to take his beloved wife to a play in Schenectady, NY.

Russell was born to Russell Flanders and Priscilla (Gifford) Carpenter on April 23, 1941 in Barre, VT. He spent several years living with his grandparents in East Randolph on the Gifford family farm while his mother attended business school and his father UVM and then while his father was deployed for WWII.

In 1970 Russell and his parents purchased Knapp Farm Supply and moved the family out of Chittenden County to Middlebury to establish Champlain Valley Equipment. His business has grown to be one of the largest farm equipment suppliers in New England, employing over 100 Vermont families between its four locations in Middlebury, St Albans, Derby and Berlin. He was exceptionally proud of the business growth while maintaining family values and its Vermont identity.

Russell was a devout family man who placed family first. He worked tirelessly to provide for his family. He could be seen at any activity his kids were involved in and this continued as he attended grandkids' and even great grandkids' functions whenever feasible.

Condolences may be sent through the Sanderson Funeral home website. In lieu of flowers the family requests donations be made to the Congregational Church of Middlebury building fund in memory of Russell. Congregational Church of Middlebury, 2 Main St, Middlebury, VT 05753.



Workforce Development

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pathway to a career as a technician. Incorporated into the three-page piece (front cover, inside and back cover) are exercises that students and parents can complete along with codes they can scan with their smart phone to find YouTube videos featuring technicians and the equipment they work on. Personally, I don't think it could have turned out much better and am excited that the "workbook" will soon be available for dealers to use when visiting classrooms, displaying equipment at fairs, hosting an open house and the like. Look for the link in an upcoming e-mail.

Another exciting project **we're working on is a virtual reality/simulation tool** students can download onto their phone or computer. The "app" will be focused on hydraulic systems and will also begin the introduction of the language, components, measures, schematics and their repair. I'm excited to see the project grow, knowing that it will begin the foundational work for engaging students (and teachers) in high schools (and maybe even middle school students) as we add support curriculum and tools to help them explore hydraulic theory and systems repair.

Those are just two of the many workforce development projects NEDA is working on today. As we move through out the year our intention is to use these articles to highlight some of our workforce development efforts and encourage your dealerships to participate in that work.

Many Hands Make Light Work

- Merriam-Webster



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Toro Company Makes \$167.5 Million Acquisition

The Toro Company announced that it has entered into an agreement to acquire privately held Venture Products, Inc., the manufacturer of Ventrac-branded products. The transaction is subject to regulatory approvals and other customary closing conditions and is currently anticipated to close before the end of The Toro Company's fiscal 2020 second quarter.

Based in Orrville, OH, Ventrac is a leading manufacturer of articulating turf, landscape and snow and ice management equipment for the grounds, landscape contractor, golf, municipal and rural acreage markets. With a combination of power and maneuverability, Ventrac products are designed to enable the operator to use the equipment in a variety of settings with ease.



~ Courtesy of OPE magazine

NEDA Members Encouraged To Update Member Profiles

Please take a moment to review it and make any necessary updates or changes on your company profile on the associations' website. Current contact information is vital to keeping our members apprised of current events, hot-topics and NEDA events. Please log into the Members Only page of the NEDA website and view or update your profile information directly at any time.

If you have any questions about access to the Members Only page, please contact Dave Close at: davec@ne-equip.com

As a member, you will receive updates and important information via email. Meeting and event attendance is always encouraged, but we wouldn't want someone to be behind on information just because they didn't attend a meeting.

NEDA appreciates the support of our members and looks forward to another year of service to our members of Northeast Equipment Dealers Association, the Association that works only for the equipment dealers here in the northeast.



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The failure to prepare leads to a bad sales call ...

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The 9 Self-Sabotaging Behaviors of Sales

SALESPeOPLE BEWARE: These behaviors prove that sometimes your worst enemy is yourself. Succeeding in sales depends on many factors, some of them beyond your control. However, what you can control, are you.

1. Failing to Adequately Prepare

Even if you are a veritable font of knowledge when it comes to your brand, proper preparation is always key, whether it is for a cold call or a follow-up presentation.

The failure to prepare leads to a bad sales call and leads to the prospect taking control. They see that the seller is lost and start asking questions and directing the conversation. It means they are trying to quickly learn as much as they can, so they do not have to deal with you any longer.

2. Not Following Through on Your Word

A large part of building and maintaining trust with clients and prospects is not done with your words, but with your actions.

“Keep good records and make sure that you do what you say you are going to do. No matter how small the agreement you make with someone, if you forget about it or blow it off, it posts a little negative stamp in the mind of that person. They remember.”

3. Trash Talking

As a salesperson, you are much more than the representative of your product or service. A trusted advisor is one who is perceived as a ‘high integrity expert’ who is willing and able to help people.”

Establishing and maintaining that integrity does not involve pointing fingers or launching attacks—pitfalls many salespeople stumble into when their clients are unhappy. It is also important to avoid bashing rival companies, as it sends negative vibes, makes you look petty.

4. Being Fake

No matter what profession you are in, nobody likes a fake person, and that rings especially true for sales. Because so much of your success is based on trust, it is important to be authentic and real.

“Do not try to be someone that you are not. People want to trust someone who they know is genuine and honest.”

5. Misidentifying the Prospect’s Stage in Decision-Making

Every prospect is in one of two decision stages: deciding whether to change, and then deciding with whom to make that change. When the salesperson does not identify which stage a prospect is in, he or she cannot know how to correctly proceed.

“Sellers assume that, if a prospect wants to meet with them, that they’re making the decision about which option they want to go with, when they may still be making a decision to change from the status quo.”

If prospects are in the first stage, then the conversation should be focused on their needs, concerns, and what they want to accomplish. Only when they have reached the second stage is it appropriate for the salesperson to start talking about specific offerings.

6. Forcing the Close

True, closing the deal is every salesperson’s main objective, but pushing a prospect to sign on the dotted line too soon could ruin your chances completely.

“Do not attempt to close the deal until you have earned the right.”

“Going for the jugular too soon creates roadblocks.” Instead, at the end of each meeting, you suggest the next logical step in the process, whether it’s having a follow-up meeting to learn about their organization in depth, interviewing a different person with the company or coming back with a proposal.

7. Neglecting the Long-Term Client

The proactive salesperson is always looking to expand his or her client base, but such efforts should never be at the expense of existing clients. The greatest source of additional business, referrals and killer testimonials comes from existing clients.

continued on page 12

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A sale is a very autonomous profession: Instead of a typical 9-to-5 desk job, you are out in the field, working on your own.

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Self-Sabotaging Behaviors

continued from page 10

Remind us that it's "out of sight, out of mind," recommend sending birthday or holiday cards, or even news articles that might pique their interest. "Anything that thoughtfully keeps your name and/or face in front of them.

8. Shirking Accountability

A sale is a very autonomous profession: Instead of a typical 9-to-5 desk job, you are out in the field, working on your own. Because of this lack of structure, salespeople must hold themselves accountable for their progress—or else they may quickly find themselves falling far behind.

"It's important to make sure that all salespeople are answerable to their numbers on a frequent and regular basis—preferably weekly if not daily." By being answerable to a number of calls, number of contacts, number of appointments, etc., it conditions salespeople to override their fears and lack of production so as not to look bad in front of their peers when their numbers are posted and reviewed for all of the sales team to see and debrief."

9. Not Self-Analyzing

Veteran sellers can fall into this trap more readily than newbie's: Salespeople assume they've seen it all, done it all and know it all, and that, if sales are low or they blow a big deal, it's due to external factors instead of internal ones.

"Only one out of seven salespeople will self-assess, and those who do are top sellers. They should constantly be in learning mode.

One of the most objective ways is to simply look at the black-and-white facts: your numbers, beyond just dollars and cents. How many calls have you made? How many contacts do you have? How long are you holding onto prospects before they either close or fade away?

"Numbers don't lie. They will point out all your strong habits and will magnify your weaknesses of habit, attitude and skill. With the numbers, it is easy to spot what specific parts of the selling cycle you need to work on."

Finally, it never hurts to go to the source: your clients themselves. "Debrief every call immediately. What worked and what did not—and write it down. You will correct faster, and it will keep your attitude high.

FMCSA's Clearinghouse for CDL Drivers Now Effective

The new FMCSA Clearinghouse rules went into effect yesterday. It will give employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel real-time information about CDL driver drug and alcohol program violations. Beginning January 6, 2020, employers

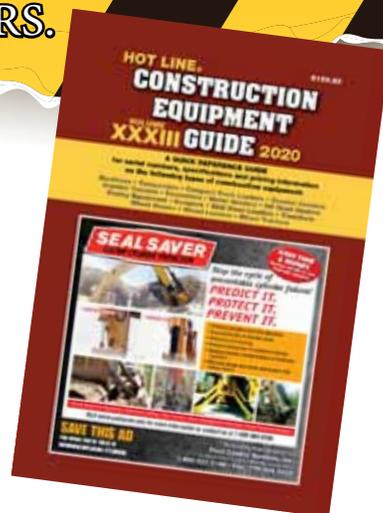


F M C S A

are required to: Report drug and alcohol violations and conduct queries to check if prospective employees are prohibited from performing safety sensitive functions, such as operating CMVs, due to an unresolved drug and alcohol program violation. Employers are also required to query all current employees at least annually. All queries require driver consent. Until January 6, 2023, conduct both electronic queries in the Clearinghouse and manual, offline inquiries to previous employers for pre-employment driver investigations.

IF YOU APPRAISE, EVALUATE, REPAIR, IDENTIFY, OR OWN HEAVY CONSTRUCTION EQUIPMENT, THIS GUIDE IS YOUR SOURCE TO THOUSANDS OF PRICES, SERIAL NUMBERS, SPECIFICATIONS, AND ON OVER 200 MANUFACTURERS.

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Summary of the Major Laws & Departments of the Department of Labor

The Department of Labor (DOL) administers and enforces more than 180 federal laws. These mandates and the regulations that implement them cover many workplace activities for about 10 million employers and 125 million workers.

Following is a brief description of many of DOL's principal statutes most commonly applicable to businesses, job seekers, workers, retirees, contractors and grantees. This brief summary is intended to acquaint you with the major labor laws and not to offer a detailed exposition. For authoritative information and references to fuller descriptions on these laws, you should consult the statutes and regulations themselves. - Rulemaking and Regulations provides brief descriptions of and links to various sources of information on DOL's rulemaking activities and regulations. See- <https://www.dol.gov>

Workplace Safety & Health

The **Occupational Safety and Health (OSH) Act** is administered by the Occupational Safety and Health Administration (OSHA). Safety and health conditions in most private industries are regulated by OSHA or OSHA-approved state programs, which also cover public sector employers. Employers covered by the OSH Act must comply with the regulations and the safety and health standards promulgated by OSHA. Employers also have a general duty under the OSH Act to provide their employees with work and a workplace free from recognized, serious hazards. OSHA enforces the Act through workplace inspections and investigations. Compliance assistance and other cooperative programs are also available. -<https://www.osha.gov/law-regs.html> - and - <https://www.osha.gov/>

Workers' Compensation

If you worked for a private company or a state government, you should contact the **workers' compensation program** for the state in which you lived or worked. The U.S. Department of Labor, Office of Workers' Compensation Programs, does not have a role in the administration or oversight of state workers' compensation programs. See here: <http://www.dol.gov/owcp/dfec/regs/compliance/wc.htm> -

The **Federal Employees' Compensation Act (FECA)**, 5 U.S.C. 8101 et seq., establishes a comprehensive and exclusive workers' compensation program which pays compensation for the disability or death of a federal employee resulting from personal injury sustained while in the performance of duty. The FECA, administered by OWCP, provides benefits for wage loss compensation for total or partial disability, schedule awards for permanent loss or loss of use of specified members of the body, related medical costs, and vocational rehabilitation. See here: <https://www.dol.gov/owcp/dfec/>

Employee Benefit Security

The **Employee Retirement Income Security Act (ERISA)** regulates employers who offer pension or welfare benefit plans for their employees. Title I of ERISA is administered by the Employee Benefits Security Administration (EBSA) (formerly the Pension and Welfare Benefits Administration) and imposes a wide range of fiduciary, disclosure and reporting requirements on fiduciaries of pension and welfare benefit plans and on others having dealings with these plans. These provisions preempt many similar state laws. Under Title IV, certain employers and plan administrators must fund an insurance system to protect certain kinds of retirement benefits, with premiums paid to the federal government's Pension Benefit Guaranty Corporation (PBGC). EBSA also administers reporting requirements for continuation of health-care provisions, required under the **Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA)** and the health care portability requirements on group plans under the **Health Insurance Portability and Accountability Act (HIPAA)**. See all here: <http://webapps.dol.gov/dolfaq/go-dolfaq.asp?faqid=225> - and - <https://www.dol.gov/general/topic/health-plans/cobra> - and - https://www.dol.gov/ebsa/faqs/faq_consumer_hipaa.html

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Tim Wentz, Field Director / Legislative
Committee Chairman
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OPEI provides education on risks of 'right to repair' legislation

OPEI has a new webpage on its website providing broad stakeholder education on the potential risks associated with state "right to repair" legislation, which would require equipment OEMs to broadly provide to the general public additional tools and information for the digital/electronic diagnosis and repair of equipment. The concern of manufacturers and dealers of equipment is that some of these newly accessible resources could enable the improper modification and illegal tampering of equipment, leading to the impairment of safety and emission controls.

Summary of the Major Laws

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Employee Protection

Most labor and public safety laws and many environmental laws mandate whistleblower protections for employees who complain about violations of the law by their employers. Remedies can include job reinstatement and payment of back wages. **OSHA** enforces the whistleblower protections in most laws. – [Click here](#)

Uniformed Services Employment and Reemployment Rights Act

Certain persons who serve in the armed forces have a right to reemployment with the employer they were with when they entered service. This includes those called up from the reserves or National Guard. These rights are administered by the **Veterans' Employment and Training Service (VETS)**. – <https://www.dol.gov/vets/>

Veterans' Preference

Veterans and other eligible persons have special employment rights with the federal government. They are provided preference in initial hiring and protection in reductions in force. Claims of violation of these rights are investigated by the **Veterans' Employment and Training Service (VETS)**.

Employee Polygraph Protection Act

This law bars most employers from using lie detectors on employees, but permits polygraph tests only in limited circumstances. It is administered by the **Wage and Hour Division**. – <https://www.dol.gov/whd/polygraph/>

Garnishment of Wages

Garnishment of employee wages by employers is regulated under the **Consumer Credit Protection Act (CCPA)** which is administered by the Wage and Hour Division. B – https://www.dol.gov/whd/FOH/FOH_Ch16.pdf

The Family and Medical Leave Act

Administered by the Wage and Hour Division, the **Family and Medical Leave Act (FMLA)** requires employers of 50 or more employees to give up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee or a spouse, child or parent. – <https://www.dol.gov/whd/fmla/index.htm#Forms>

Government Contracts, Grants, or Financial Aid

Recipients of government contracts, grants or financial aid are subject to wage, hour, benefits, and safety and health standards under:

- The **Davis-Bacon Act**, which requires payment of prevailing wages and benefits to employees of contractors engaged in federal government construction projects; – <https://www.dol.gov/whd/govcontracts/dbra.htm>
- The **McNamara-O'Hara Service Contract Act**, which sets wage rates and other labor standards for employees of contractors furnishing services to the federal government;
- The **Walsh-Healey Public Contracts Act**, which requires payment of minimum wages and other labor standards by contractors providing materials and supplies to the federal government.

Administration and enforcement of these laws are by The Wage and Hour Division. The Office of Federal Contract Compliance Programs (OFCCP) administers and enforces three federal contract-based civil rights laws that require most federal contractors and subcontractors, as well as federally assisted construction contractors, to provide equal employment opportunity. The Office of the Assistant Secretary for Administration and Management's (OASAM) Civil Rights Center administers and enforces several federal assistance based civil rights laws requiring recipients of federal financial assistance from Department of Labor to provide equal opportunity.

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The Agricultural Equipment Technician Apprenticeship is sponsored and administered by the Northeast Equipment Dealers Association and is limited to participating members and their employees. If you are a student, veteran or adult interested in a clear pathway to a well-paying career, an agricultural equipment technician apprenticeship might be for you!

NEDA

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For more information visit us at nedaapprentice.com

Agricultural Labor: Use of New I-9 Form Required on April 30, 2020

On January 31, 2020, the U.S. Citizenship and Immigration Services, Department of Homeland Security (USCIS) published a notice at 85 FR 5683 announcing a new version of Form I-9, Employment Eligibility Verification, identified as Rev. 10/21/2019. The new form may be used beginning January 31, 2020. On April 30, 2020, the prior version, identified as Rev. 07/17/2017 N, will no longer be valid for compliance with federal law. Employers do not need to complete the new Form I-9 for current employees who already have a properly completed Form I-9 on file, unless reverification becomes otherwise required by law. Changes to the form and its accompanying instructions are minimal and the underlying legal requirements have not changed.

~ Courtesy of

Agricultural Law Weekly Review
February 13, 2020 of PSU

Summary of the Major Laws

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Migrant & Seasonal Agricultural Workers

The **Migrant and Seasonal Agricultural Worker Protection Act (MSPA)** regulates the hiring and employment activities of agricultural employers, farm labor contractors, and associations using migrant and seasonal agricultural workers. The Act prescribes wage protections, housing and transportation safety standards, farm labor contractor registration requirements, and disclosure requirements. The Wage and Hour Division administers this law. – <https://www.dol.gov/WHD/mspa/index.htm>

The **Fair Labor Standards Act (FLSA)** exempts agricultural workers from overtime premium pay, but requires the payment of the minimum wage to workers employed on larger farms (farms employing more than approximately seven full-time workers). The Act has special child-labor regulations that apply to agricultural employment; children under 16 are forbidden to work during school hours and in certain jobs deemed too dangerous. Children employed on their families' farms are exempt from these regulations. The Wage and Hour Division administers this law. OSHA also has special safety and health standards that may apply to agricultural operations. – <https://www.dol.gov/whd/flsa/>

The **Immigration and Nationality Act (INA)** requires employers who want to use foreign temporary workers on H-2A visas to get a labor certificate from the Employment and Training Administration certifying that there are not sufficient, able, willing and qualified U.S. workers available to do the work. The labor standards protections of the H-2A program are enforced by The Wage and Hour Division. – <https://www.dol.gov/whd/regs/compliance/whdifs26.pdf>

Construction

Several agencies administer programs related solely to the construction industry. OSHA has special occupational safety and health standards for construction; The Wage and Hour Division, under Davis-Bacon and related acts, requires payment of prevailing wages and benefits; The Office of Federal Contract Compliance Programs enforces **Executive Order 11246**, which requires federal construction contractors and subcontractors, as well as federally assisted construction contractors, to provide equal employment opportunity; the anti-kickback section of the **Copeland Act** precludes a federal contractor from inducing any employee to sacrifice any part of the compensation required.

Posters

Some of the statutes and regulations enforced by the U.S. Department of Labor (DOL) require that notices be provided to employees and/or posted in the workplace. DOL provides free electronic and printed copies of these required posters.

The e-laws Poster Advisor can be used to determine which poster(s) employers are required to display at their place(s) of business. Posters, available in English and other languages, may be downloaded and printed directly from the Advisor. If you already know which poster(s) you are required to display, see below to download and print the appropriate poster(s) free of charge. [CLICK HERE](#). Please note that the e-laws Poster Advisor provides information on federal DOL poster requirements.

Related Agencies

Other federal agencies besides the Department of Labor

- Statutes that ensure non-discrimination in employment are generally enforced by the Equal Employment Opportunity Commission (EEOC). – <https://www.dol.gov/dol/topic/discrimination/index.htm>
- The Taft-Hartley Act regulates a wide range of employer-employee conduct and is administered by the National Labor Relations Board (NLRB).

EDITOR'S NOTE:

"If you would like your dealership featured in the 'Northeast Dealer monthly newsletter for viewing by over 500 dealers in the northeast, please email arts@pa.net with your press materials", include pictures with names of individuals showing for publication. This would include open houses, special programs and any local award, etc., your dealership earned.



The impact (value) of the association's legislative advocacy, work-force development, and Industry Relations work can easily be overlooked. Our efforts cannot be accomplished without significant financial investment, support, and grass-roots participation. If we're to continue that work, we are going to need your help participating in and financially supporting our legislative work, association governance/direction, and program development. We need your help recruiting new members, participating in legislative visits, giving testimony, contributing financially to the legal/legislative fund, association governance/direction, and program development!

NLRB Restores Employers' Right to Restrict Use of Email

The National Labor Relations Board decided that employees have no statutory right to use an employer's equipment, including work emails and IT resources. Therefore, employers may legally restrict the use of their equipment, such as work emails, even for union organizing activities or for other activities protected under Section 7 of the National Labor Relations Act. In reversing a significant Obama-era ruling, the Caesar's Entertainment decision holds that employees' statutory rights to engage in protected, Section 7 activities must yield to the property rights of employers to control the use of their equipment, provided that employers do not target union related communications and activity and that employees have reasonable alternate means of communication available to them.

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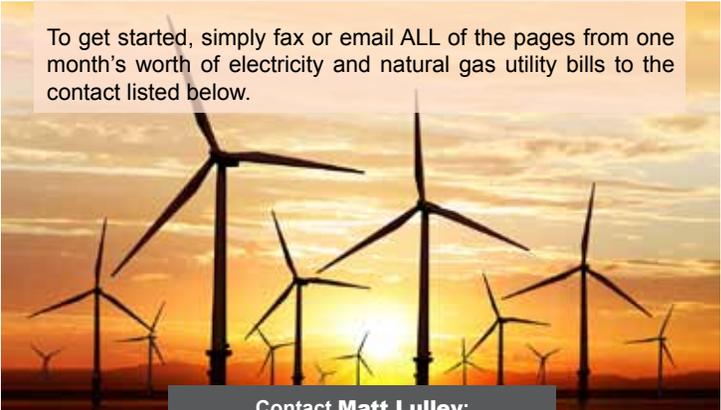
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Should I Stay (Merge) or Should I Go?



By Lance Formwalt

Mergers have become a popular option for dealers who want to stay in the industry and need to find a way to grow despite capital and/or management challenges.

As a dealer operating in an industry that is experiencing a lot of change, you are constantly assessing whether you still “fit” in the industry and whether it makes sense to stay in the business or start thinking about leaving the game. This decision is often made more difficult because simply saying you want to stay and keep doing the same thing isn’t really a long-term option. Instead, a decision to stay usually means you need to be thinking about how your organization will grow. Growth as a necessity for dealerships is being driven by many of the key players in your business ... customers are demanding more from their dealers as they grow and go through their own period of rapid consolidation, manufacturers are driving dealers to grow by creating programs that often favor larger dealers and give them a leg up on maintaining profit margins, and your own employees are looking for larger organizations that can give them opportunities for growth.

Unfortunately, unless you are a dealer just sitting on piles of cash (I have yet to find too many of those!), growth is a bit more complicated than just pulling out the checkbook. Valuations have been climbing recently as dealers have methodically worked through used equipment gluts from several years ago, making affordability an issue for many dealers. And even if you have the equity cushion in your business to pull off an acquisition, you will find that the equity percentage gets reduced quickly as you pay blue sky for a dealership and take on more inventory that is fully-financed (and creates a corresponding drag on equity percentage or ratio). Dealers who want to stay in the business also may not have the management capability or bench strength to grow.

THE MERGER OPTION

Mergers have become a popular option for dealers who want to stay in the industry and need to find a way to grow despite capital and/or management challenges. Although they aren’t easy to pull off, a merger can be used in many different situations to facilitate a dealer’s desire to grow without using capital or requiring outside investors because a merger is simply a transaction where two or more dealers pool their resources in exchange for a smaller piece of a hopefully larger pie. In addition to growth, mergers also can have several positive long-term benefits on both your investment value and organization.

VALUE BENEFITS

- *Preserve Operational Value* – Increased scale of your organization through a merger should help you maintain (and ideally expand) your margins and ultimately the value of your dealership.
- *Protect Organizational Value* – The value of a dealership is often incredibly dependent on the number of potential buyers for your business. With manufacturer approval a necessity in this industry, having multiple adjacent buyers is key to a successful sale price. Mergers allow you to expand your geographic boundaries to create more touch points with potential buyers and sellers and reduce the risk of being boxed in by a single in-line competing dealer.
- *No Tax Loss of Value* – Mergers can generally be structured so that they are tax-free. This allows all capital to stay in the organization and be used to generate future growth to enhance the value of the organization.
- *Favorable Changes to Exit Timing* – Merged organizations generally increase the number of owners with many of them having different time horizons for exiting the business. While this makes it less likely that the dealership will be sold as an entire business in the future, it creates more opportunities for you to liquidate your ownership interest when the time is right for you. This is a positive benefit because your co-owners become viable buyers for your business and the tax consequences of selling your ownership interest vs. the assets of the business are often better.
- *Attract Different Categories of Future Buyers* – There has been significant interest in dealerships by outside investors looking at the equipment dealer industry segment as an investment strategy. While it is still too early to tell if this will be a long-term trend in the industry, what I do know is that your dealership will be much more attractive to

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Illegal Tampering

Electronic Control Unit (ECU) tuning and modifying equipment to boost performance or evade emission controls has become a significant issue throughout the nation. Sometimes called chipping, tuning or ECU mapping, it's important you inform customers of the risks modifying equipment brings before they pay the price with voided warranties, accelerated engine wear, physical harm or even fines.

Learn more about why tampering with a Diesel Exhaust Fluid (DEF) system is illegal and can result in heavy fines.

Find helpful downloads for any situation by clicking on the Dealer Toolkit Icon below to enter the Resource Center.



DEALER TOOLKIT

Important information regarding equipment modification and illegal tampering

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Form WH-382 - Designation notice required?

If an employee is not eligible for FMLA leave is the employer required to provide the WH-382 form (Designation Notice)?

Employers are not required to use the federal Family and Medical Leave Act (FMLA) Designation Notice (Form WH-382) published by the Department of Labor, but leave covered under the act must be designated as FMLA-protected and the employer must inform the employee in writing of the amount of leave that will be counted against the employee's FMLA leave entitlement.

Read more - <https://www.federatedinsurance.com/posts/hr-question-of-the-month/form-wh-382-designation-notice-required>.

*~ Courtesy of
Federated Insurance Co.*

Should I Stay

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outside capital (and likely drive a higher valuation) as it grows in size. Outside investors often set a minimum threshold of profits and/or sales to even have any interest in a dealership.

ORGANIZATIONAL BENEFITS

Dealership growth in general can have many positive benefits on your organization. But growth through merger can accelerate these benefits as mergers often double or even triple the size of your organization in a single transaction while growth through acquisition often involves incremental/slower-paced growth. The benefits of growth on your organization include the following:

- **Management Depth** – A larger organization must have solid management and bench strength to be successful. Manufacturers will also generally require strong management or a plan to attract and retain strong management before a merger will be approved. The resources from a merged organization will generally make it easier for you to attract and retain management talent.
- **Professional Management** – Larger organizations will gravitate toward professional management who are often better trained to implement processes and strategies to help improve the performance and value of your dealership. It is important to note that “professional management” and “family management” are NOT mutually exclusive terms. Family members of ownership groups may certainly make great managers, but in larger organizations, these positions are much more likely to be earned through performance and should generally be viewed as a positive organizational development.
- **Outside Expertise** – The additional resources and scale that come from a large dealer organization allows you to invest more in outside expertise. While you should not give up your management/investment instincts that allowed you to create tremendous value in your dealership, the ability to access insights from other perspectives outside of your organization, whether through advisors or independent directors, can give you an edge that smaller competitors may not have.
- **Limit Risk** – As dealerships get bigger, owners can reduce personal risk. This will primarily occur in two forms: (1) eliminating or reducing personal guaranties to manufacturers and lenders and (2) getting more pre-approval of ownership changes from manufacturers. Although change can be slow, I've seen this trend play out in multiple industries and the simple fact is that larger organizations that are well run and on good financial footing pose less credit risk and management risk to their industry partners. As owners realize this, they need to take advantage of that opportunity to negotiate a corresponding reduction in their personal risk. The merger process can be a good time to accomplish that.

CONCLUSION

I understand that change is hard and not something that can be pulled off with the snap of your fingers. But if you decide you want to stay in this business, change through growth will become a necessity for most of you and using mergers to achieve that growth can carry many positive benefits.

Lance Formwalt is the leader of the Equipment Dealer Group at Seigfreid Bingham, P.C. The firm also serves as legal counsel to equipment dealer associations and many individual equipment dealers. Lance may be contacted at lancef@sb-kc.com or 816-265-4106. Also see www.sb-kc.com. This article is intended to provide general recommendations and is not intended to be legal advice. You should always consult your attorney for advice unique to you and your business.

NEDA Employee Skills Test

The employee skills tests are designed to help assess the readiness of an applicant or employee to undertake certain service tasks and responsibilities within a dealership. For more information on the NEDA skills test [click here](#)

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REAL ID: WHAT TRAVELERS NEED TO KNOW

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Department of Homeland Security will officially begin enforcing the REAL ID Act of 2005 at airports.

This will require all Americans to present REAL ID-compliant identification to go through security.

This identification will include "Real ID-compliant" driver's licenses, US passports, US military IDs or other accepted identification to fly within the United States. It is important that you realize this and educate your meeting and incentive attendees. According to the U.S. Travel Association, 57 percent are unaware of the October 1, 2020 deadline.

All 50 states are part of the Real ID program and will be issuing compliant driver's licenses this year. U.S. Travel is urging people not to wait to get their Real ID-compliant driver's license so that state licensing agencies won't get overwhelmed by requests for new driver's licenses next summer as the deadline approaches. Such licenses will feature a special mark, typically in the upper right corner of the license. The marks vary by state but typically will include a gold or black star, or a gold or black circle with a white or black star inside the circle. Some states will be issuing cards marked with their state emblem or an outline of the state with a gold, black or white star incorporated in it.

For more information about Real ID-compliant identification cards, go to www.tsa.gov/real-id.



NEDA's Agricultural Equipment Technician Apprentice Management System

This apprenticeship program is sponsored by the Northeast Equipment Dealers Association for our dealer members and their employees. If you are a student or an adult in the workforce who has an interest in a well-paying career as a technician maintaining and repairing agricultural equipment, please explore becoming an agricultural equipment technician. For more information [click here](#)

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