

DEALER

The Newsletter of NORTHEAST EQUIPMENT DEALERS ASSOCIATION, INC.



EDA WELCOMES NEW BOARD MEMBERS TO THE NATIONAL ASSOCIATION

ST. LOUIS, MO (August 19, 2021) – The Equipment Dealers Association (EDA) is pleased to announce the election of two new directors and the re-election of one current director to its Board of Directors. Each director will serve a three-year term that begins October 1, 2021 and will attend the next Board of Directors meeting this October in Dallas, TX.

Northeast – Brad Hershey is one of four on **Hooper, Inc.'s** "Third Generation Ownership & Leadership Team," founded in 1941 by his grandfather, Charles Hooper. Hooper is a nine-store retail dealership representing Case IH/JCB/KUHN/ Great Plains/Kubota, along with specialty lines, located in PA, DE, MD, and VA. Brad started with Hooper in 1985 as a salesman in Delaware and was assigned Store Manager of Hooper's third acquired location in Mifflintown, PA in 1996.

North Central – In 2002, Les Olson and his business partner, founded Plains Ag LLC and operated a single store, Frontier Equipment, in Williston, North Dakota.

Western – Scott Eisenhauer is the General Manager of P&K Equipment, Inc. and P&K Midwest, Inc. P&K Equipment operates 18 John Deere dealerships throughout Oklahoma and Arkansas.

"We are thrilled to welcome Les and Scott as leaders on the EDA board," said Kim Rominger, President and CEO of the Equipment Dealers Association. "These gentlemen represent successful, well-respected businesses, and we look forward to their input and recommendations on building an even stronger EDA. **Brad is an excellent board member**, so we're excited to have him return for a second term."

"EDA would like to thank our two outgoing board members for their time and dedication to EDA and its dealer members over the past three years." Les is replacing Daniel Jones of Frontline Ag and Scott is replacing Jim Meinhardt of KanEquip, Inc.

OSHA Updates COVID-19 Guidance for Workplaces

On August 13, the U.S. Occupational Safety and Health Administration issued updated guidance regarding workplace coronavirus precautions, incorporating, among other things, the Centers for Disease Control and Prevention's July 27 COVID-19 guidance.

The guidance does not specifically discuss trucking but instead focuses on higher-risk workplaces with mixed-vaccination status workers, such as manufacturing; food processing; and high-volume retail, where there is often prolonged close contact with other employees and/or the public. However, certain portions may be relevant dependent on the transmission status in your region and/or interactions of your employees with other businesses and the public.

NEDA Salutes our Supporting Advertisers. It is our pleasure to list the names of those advertisers who support NE Dealer each month. We trust their advertisement will be remembered when goods and services are required by you, our dealer members. It is good to do business with companies who are interested in doing business with you and your industry association.

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2015-2016	30.0%
2014-2015	20.0%
2013-2014	15.0%
2012-2013	15.0%
2011-2012	5.0%
2010-2011	20.0%

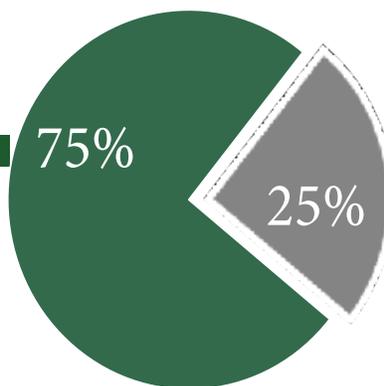
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Observations

from the **FIELD**

Last month I mentioned that the Right-to-Repair (R2R) "field of play" had changed, referencing the president's executive order, a subsequent FTC policy statement, and the introduction of Congressman Morelli's "The Fair Repair Act" before the US Congress. Unfortunately, less than a month later, I have to report that the pace of change has not re-vented. R2R advocates are continuing to demonstrate both that they are not easily deterred and that they are actively adapting and evolving their campaign strategies to counter ours. An example of that creativity is PA HOUSE BILL No. 1757 Session of 2021. HB 1757 includes bipartisan sponsors and requires manufacturers of digital electronic equipment (anything with embedded code) sold or used in the state to establish a "reparability" ranking for each product and include that score in packaging, with directions to the full reparability information posted to the manufacturers or Attorney General's publicly accessible website.

The bill is a tactic we've not seen before and fits easily into the advocate's talking point that "our campaign is focused on ensuring consumers and small businesses have access to the parts, tools and service information they need to repair products so we can keep things in use and reduce e-waste". Put another way, "they" want customer direct sales of parts, access to service-related tools and information at the same price your dealership pays (without any requirement for training or certification, etc.), a copy of all embedded code, and the right to modify it! **All of these things could have significant unintended consequences, and a negative effect on your dealership, employees, the value of your used equipment inventory, and your customer's equity position!**

Legislatures in a number of our states will be coming back in session in September, so we have several months to go before the 2021 legislative books are closed. We know that the advocates are well funded, media savvy, well-organized, and dedicated to playing a sustained "long" game focused on expanding their coalitions, and driving the messaging in the media to obtain public support. We have some work ahead of us!

As evidenced by a legislator's question at a joint committee hearing at Ag Progress Days focused on the application of Augmented Reality in the Agriculture industry, R2R isn't likely to go away anytime soon. His question of how this technology supports right to repair confirms that the advocates' messaging is having an impact. **Our best opportunity is for dealer principles and senior leadership to engage our employees, customers, and legislators and ensure they have the facts. Please invest the time necessary to educate your staff, department heads, and customers on the issue and ensure they are aware of the unintended consequences should legislation be enacted. It is vital that they understand!**

Want some help figuring out how to start those conversations? Click into the illegal tampering logo at <https://www.ne-equip.org/>.

Please take some time and check out our updated legislative tracking report on the associations website. The report function features an interactive states map and the ability to sort legislation by category. It's @ <https://www.ne-equip.org/legislative-update/>.

Please also consider contributing to NEDA's legislative fund and ensuring that NEDA can continue this important work on your behalf!

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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In Memoriam

Lionel Theriault, Jr. "Chooch"

Presque Isle & Caribou - August 15, 2021, Lionel Theriault Jr. "Chooch" went home to be with the Lord.

Lionel or Chooch as some knew him was born October 25, 1946, in Caribou Maine, where he lived for most of his life before moving to Presque Isle. He is survived by his loving wife Nancy (Fowler) Theriault and his four children Lisa Griffeth and husband Mark, Cole and wife Lyndsay, Shane Theriault and Jesse Theriault and fiancé Shauna Johnston.

Lionel owned and operated **Theriault Equipment in Presque Isle** and **Harvest Equipment in Vermont** which he took over from his father. Lionel was involved in many different activities in the community including the Northern Maine Fair, FFA where he was just recognized as an honorary State member, and many boards throughout Aroostook County.

The family will be celebrating his life at his pond "Chooch Dam" next to the Theriault Equipment (John Deere) store 120 Caribou Rd, Presque Isle, ME 04769. In lieu of flowers, donations in Lionel's memory can be made to the Aroostook House of Comfort or Charity of choice PO BOX 867, Presque Isle, ME 04769.



Arthur K. Heins Jr.

Arthur Kenneth "Bud" Heins, Jr., 67, of Valatie, NY passed away recently. Art was born in Hudson, NY to Arthur Heins, Sr., and Ruth Heins (Hodge) on June 3rd, 1954. He attended Ichabod Crane High School and graduated in 1972. **He owned and worked for Heins Equipment Company and was a past director of the New York Equipment Dealers Association (NYEDA).**

He enjoyed spending time with his family, watching, playing, and discussing sports and riding his Harley Davidson. He was a member of the Old Chatham Hunt Club, Village of Valatie Planning Board, Northern Columbia Lions Club, and enjoyed being Santa's helper with the Valatie Santa Claus Club. Art is survived by his wife, Suzanne (Trout) Heins, of Valatie, his children Trevor Heins (Rebecca Fischer), Tahnee Bickerton (Philip Bickerton), Corey Heins, and Shaye Heins (Fitzgerald Drummond). In lieu of flowers, memorial donations may be made to the Healthcare Consortium, 325 Columbia St. #200 Hudson, NY 12534 and/or the Valatie Volunteer Rescue Squad, 35 NY-9H Valatie, 12184.



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Penn State Ag Law Center: More legal directives from federal government on employer vaccination requirements

COVID-19: DOJ Memo Finds FDCA Does Not Prohibit Employers from Requiring Vaccinations Subject to Emergency Use Authorization

On July 26, 2021, the U.S. Department of Justice (DOJ) published a memorandum, dated July 6, 2021, titled “Whether Section 564 of the Food, Drug, and Cosmetic Act [FDCA] Prohibits Entities from Requiring the Use of a Vaccine Subject to an Emergency Use Authorization [EUA].”

- The memorandum analyzes language in the FDCA that instructs the Food and Drug Administration (FDA) to “ensure that individuals to whom the product is administered are informed . . . of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.”
- The DOJ determined that the language does not prevent entities, such as companies and schools, from requiring vaccinations subject to EUAs for individuals, such as employees and students, as a condition of employment or registration with the entity. The memorandum reasoned that the language only “require[s] parties administering the products to do so in particular ways,” specifically, that they provide recipients with FDA-prescribed fact sheets, and that nothing in the FDCA implies “that Congress intended to regulate such entities except with respect to the circumstances of their administration of the product itself.”
- The memorandum further explained that “if Congress had intended to restrict entities from imposing EUA vaccination requirements, it chose a strangely oblique way to do so,” because it could have “simply stat[ed] that persons (or certain categories of persons) may not require others to use an EUA product.” The memorandum also referenced recent relevant caselaw, which dismissed a challenge to a hospital’s vaccination requirement. See *Bridges v. Houston Methodist Hosp.*, No. 4:21-cv-01774 (S.D. Tex. June 12, 2021), appeal docketed, No. 21-20311 (5th Cir. June 14, 2021). However, in a footnote, the memo noted that it “do[es] not address whether other federal, state, or local laws or regulations, such as the Americans with Disabilities Act (“ADA”), might restrict the ability of public or private entities to adopt particular vaccination policies.”

Courtesy of: Brook Duer, Staff Attorney, Center for Agricultural and Shale Law, 329 Innovation Boulevard, Suite 118, University Park, PA 16802, cell (717) 874-0935 - dhd5103@psu.edu

NEDA 2021 Holiday Schedule

Monday	September 6	Labor Day
Monday	October 11	Columbus Day
Thursday	November 25	Thanksgiving
Friday	November 26	Thanksgiving
Friday	December 24	Christmas
Friday	December 31	New Years





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Rural Broadband a Priority for Ag Committee

Rep. Glenn “GT” Thompson, a ranking member of the House Ag Committee, spoke during Penn State’s Ag Progress Days.

The COVID-19 pandemic highlighted many deficiencies in the agricultural system and rural America — the limits of our “just-in-time” food system was among the first to be exposed.

But Rep. Glenn “GT” Thompson thinks the pandemic exposed one issue above everything else: the need for rural broadband.

Speaking at Ag Progress Days, Thompson, the ranking leader of the House Agriculture Committee, told visitors that the pandemic exposed the need for rural broadband as people had to stay home for school and work, putting those without high-speed internet at a disadvantage.

Getting a long-term fix in place will take time, but Thompson says the issue has become a priority for the committee. In July, the committee passed the Broadband Internet Connections for Rural America Act, a \$42.3 billion package that Thompson says is focused on the “last mile” of broadband connections — from transmission lines to homes.

Parts of the act could very well be rolled into the much larger Infrastructure Investment and Jobs Act — the \$1.2 trillion package that was passed by the Senate and is now in the House for consideration. That bill already includes \$65 billion for high-speed internet, but Thompson wants the committee’s bill to also come up for a vote.

He and Rep. David Scott, D-Georgia, chairman of the House Ag Committee, are considering sending the bill through as a “suspension,” a tactic that’s used to quickly move through noncontroversial bills quickly — think the naming of a post office.

He also discusses – carbon - For the balance of the article, please [click here](#).

Hear It Here First:

Vilsack Shares Details on Important ‘First Step’ for Infrastructure Bill

USDA Secretary Tom Vilsack joined AgriTalk host Chip Flory recently to celebrate what he described as an important first step in the process of improving infrastructure in rural America and across the country.

With bipartisan support, the Democratic-controlled Senate passed an infrastructure bill.

“A multitude of administrations have talked about the importance of investing in infrastructure but have not yet been able to get the job totally, completely done. The fact that this administration, working with this Senate, in a bipartisan way, was able to get 69 senators, 19 Republicans and 50 Democrats, to agree on a fairly significant package that will improve broadband access, invest in a modernized transportation system, ensure peace of mind when you turn on the tap with clean water and safe drinking water and invest in more resiliency on our farms and forests, it’s a big, big day,” Vilsack said. “It’s obviously a first step, the House has to take action. But I think we clearly see there is an understanding and appreciation that the time is long overdue for these investments.” **REMEMBER, this is not law yet, this only passed the Senate and not signed by the President.**

Please [click here](#) for the balance of the bill.

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What's Your Dealership's Cash Conservation Strategy?

By: Dave McMahon, March 25, 2020

The following article was submitted by Powersports Business contributor Mark J. Sheffield, a former dealer principal.

If your parents were like mine, they told you to always keep enough money in the bank to cover six months' worth of expenses. For years, I have told the dealers I work with the same thing. Now we are finding out who listened (and it's obvious that most of this country's large corporations didn't) and who didn't.

Not every dealer is going to survive the sudden and dramatic impacts of the COVID-19 pandemic, but those who do will be the ones who came into this with low debt, strong inventory management skills, a solid team, decent cash reserves and a plan to weather a downturn.

In the dozens of calls, I've had with dealers over the last few weeks, one of the items I've consistently emphasized is dealers having a Cash Conservation Strategy (CCS) — how to generate cash on short notice, and to stretch out your current war chest for as long as possible.

Before you do anything else, turn off the news. Listen to some relaxing music or hard rock (I don't care which one you choose). Anything but the news.

Then, here are some key steps to take:

Know your current cash position

- How much cash do we have in the bank?
- Before lending tightens up, can we draw down our business loans?
- If the dealership runs short on cash, are we willing and able to put money back into the business?

Reduce cash burn

- Management approval of all parts/accessory orders for stocking items
- Audit all outstanding vehicle orders and cancel unneeded orders
- Used vehicle acquisition
 - Continue to take used vehicles on trade (and if so at what value)?
 - Continue to buy used vehicles outright?
- Reduce or eliminate dealership services (advertising, satellite TV, shop chemical servicing programs, security, etc.)
- Reach out to OEMs and floor plan lenders to absorb current and future floor plan expenses (they are the ones who pushed most of dealers into their overstock situations and their current borrowing costs are close to 0%)
- Negotiate with lenders for forbearance on loan payments, forgiveness for interest payments, deferral of curtailments, and ask for payment plans on outstanding debts

Generate free cash

- Sales and specials to move as many parts and accessory inventory as possible (no better time than the present to sell that old stuff on eBay)
- Service and sell through used inventory (retail / auction / low margin deals)
- File all outstanding warranty claims
- Submit all contracts in transit
- Send out statements for all Accounts Receivable (and instantly place a hold on or terminate all AR accounts)

Identify and understand current Federal, State, and local support programs

- Is my business eligible for a small business loan, and what are the conditions on these emergency loans?
- The original round of legislation passed by Congress kicked in on April 2, 2020, but it only offers tax credits, not direct payments. Is our business in a position to front these payments to employees?
- Should employees be furloughed or laid off? What are the ongoing benefits to the staff and the ongoing costs to the dealership (health care, unemployment, insurance costs, etc.) along with ongoing liabilities?
- What will future legislation provide, and with what restrictions and conditions?

Personnel Expenses

- Identify critical staff. Ignore friendships and personal relationships, and instead focus on those who employees who are team players, have a history of performance, and are willing to do whatever it takes to help the dealership survive.
- Identify non-essential staff. This will be the hardest decision most dealers have to make, but it's important to recognize that continuation of payroll expenses without commensurate revenues will quickly drive a dealership into bankruptcy.
- Make sure that layoffs evenly impact the business, trimming positions all the way from entry level to management. Managers will typically protect their own positions at all costs, even when they have no one left to manage.
- Pay and benefit adjustments. Staff who remain should be willing to take temporary reductions in pay.

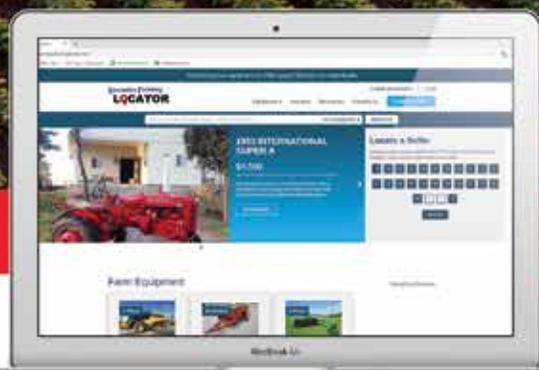
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STRONGER TOGETHER

Northeast Equipment Dealers Association
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When you REAP the benefits of membership, your PROFITS will follow!
Call Ralph Gaiss at 800-932-0607 for questions and support.



Cash Conservation Strategy?

continued from page 10

Nuclear options

- Call floor plan lenders and reduce outstanding lines of credit
- Cancel all company credit cards
- Terminate franchises
- Temporarily shut the doors

There is lots of fake news and conjecture about future legislation. The last thing we should be doing right now is burning time and energy thinking about breaking news that may either be false or that might not come to fruition. Now isn't the time for partisanship. The only things that currently matter are the Ground Truth and legislation that has passed.

If you are set up as a PEO (professional employer organization), then work with your business partner to identify what you can and can't do during this emergency. If you aren't part of a PEO, then reach out to the State dealer association that supports your industry and ask them for guidance.

COVID-19 will forever change this country and our industry. There is a high probability that the dealer count on the other side of this pandemic will be significantly reduced. A manager isn't defined by the easy problems that he/she solves, it's by how the difficult ones are addressed and how those messages are conveyed to the team. Your survival during these trying times may ultimately be predicated not only by your cash reserves, but also by your willingness to take swift and decisive actions.

Mark J. Sheffield is a U.S. Army Veteran, strategic advisor for Woods Cycle Country, contributing writer for Outdoor Power Equipment Magazine and PowerSports Business Magazine, and currently facilitates multiple 20-groups for Spader Business Management. When he's not assisting with dealership performance, he can be found at the rifle range or digging holes with his backhoe. You can keep up to date with his posts at <https://www.linkedin.com/in/markjsheffield> or contact him at MSheffield@Wood-sCycleCountry.com - This article originally appeared on outdoorpowerequipment.com and is reprinted with permission of OPE.

FMCSA IMPLEMENTS NEW REGULATION

On February 7, 2022, the Federal Motor Carrier Safety Administration (FMCSA) will implement a new regulation, Entry Level Driver Training (ELDT), that will impact how your employees and customer employees can obtain a Commercial Driver's License (CDL).

The ELDT rule establishes minimum education and training standards for drivers:

- Applying for their initial CDL.
- Upgrading their current CDL; or
- Obtaining a passenger, school bus, or hazardous materials endorsement for the first time.

As of February 7, 2022, an entry-level driver must, prior to taking the CDL skills test, successfully complete a prescribed program of theory and behind-the-wheel instruction provided by a school or other entity listed on FMCSA's Training Provider Registry (TPR).

With the implementation of this rule, the process of obtaining a CDL, upgrading a CDL, or obtaining certain endorsements will become more complex.

Current employees with CDL that are not looking to upgrade or change their endorsements will NOT be impacted by this new regulation.

This regulation will be followed by all the US's states.

Please pass the information on to your dealership HR department as well so they are aware of the regulation change.

Click on links below for additional information on the ELDT:

<https://link.edgepilot.com/s/94dbb6f6/HV8sLemHbUKjptLKxXjEOQ?u=https://www.fmcsa.dot.gov/registration/commercial-drivers-license/entry-level-driver-training-eldt>

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Buying A New Vehicle for Your Business? Consider Section 179 and Bonus Depreciation Before You Sign Up!



BY BART BASI

If you're planning on purchasing or financing a new or used vehicle for your small business, you may be able to get a great tax benefit in doing so. The Section 179 tax deduction allows a taxpayer to deduct part of the cost of the vehicle in the first year that it is used for business so long as it meets the requirements of Section 179 of the Internal Revenue Code. Before you sprint to your nearest exotic car dealership to finance a 2021 Lamborghini Aventador, there are a few rules to be aware of. First, not every vehicle can receive Section 179 tax treatment. Heavy SUV's, pickups, and vans that are used for business more than 50% of time and exceed 6,000 lbs. gross vehicle weight are eligible.

Obvious vehicles that are used solely for business with no potential for personal use also qualify, such as delivery type vehicles or a classic cargo van or box truck with no passenger seating. These types of vehicles could also include a hearse or ambulance, which have little to no value for personal use. Next, there are limits to the price amount for equipment that a business is seeking Section 179 treatment for; your entire fleet cannot consist of Mercedes G-Wagons. The Section 179 limit for 2021 allows for up to \$1,050,000 in eligible equipment to be deducted, and the 'total equipment purchased' by a business cannot exceed \$2,620,000.

Once the equipment purchased exceeds that number, the deduction reduces on a dollar-for-dollar basis. The cost of any sport utility vehicle for any taxable year which may be considered under Section 179 shall not exceed \$25,000. Small business owners will also be surprised to hear that you do not have to purchase a vehicle outright to qualify for Section 179, you can also use the tax deduction on vehicles that are being financed. Taxpayers are also usually surprised to learn that the vehicle does not have to be from the showroom floor. So long as the vehicle is new to you and meets all other requirements, it is eligible for Section 179 treatment. Small business owners need to make sure that they do not confuse Section 179 deduction with bonus depreciation. Bonus depreciation is taken after the Section 179 deduction is taken. Therefore, it is useful to very large businesses spending more than whatever Section 179's spending limit is for that year. Also, businesses with a net loss in a given tax year qualify to carry-forward the bonus depreciation to a future year. When applying these provisions, Section 179 is generally taken first, followed by bonus depreciation, unless the business has no taxable profit in the given tax year.

New and pre-owned heavy SUVs, pickups and vans acquired and put to business use in 2021 are eligible for 100% first-year bonus depreciation. The only requirement is that you must use the vehicle more than 50% for business. If you made a purchase in a prior year and want to claim the Section 179 deduction, that is unfortunately not permissible. To qualify for the Section 179 deduction for any given tax year, the equipment must be purchased (or financed/leased) and placed into service between January 1 and December 31 of that year.

However, Section 179 can be used every year. It was made a permanent part of our tax code with the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). **Finally, and this step is possibly the most important to note, the Section 179 deduction is NOT automatically applied.** To receive the benefit, the taxpayer MUST elect Section 179 treatment on their tax return. To take the Section 179 deduction, a taxpayer must disclose the acquisition on Form 4562 (Depreciation and Amortization) in the year that the vehicle is obtained.

If a small business owner purchases/finances a new vehicle for their company without taking the Section 179 deduction (and bonus depreciation if applicable), they are simply leaving money on the table for the company. By utilizing this extremely useful deduction, a taxpayer could potentially save tens of thousands for their business. If you own a small business and have any questions regarding Section 179, bonus depreciation, or any other beneficial tax deductions that you may be missing out on, please reach out to the professionals at The Center for Financial, Legal and Tax Planning, Inc at (618) 997-3436.

Article provided by: Dr. Bart A. Basi, Senior Advisor of the Center for Financial, Legal & Tax Planning, Inc.

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Farms, Homeowners, ATVs NY Dealer Does It All

Brothers Eric and Tim Law expand their family business in central New York.

BY JESSICA JOHNSON

CORTLAND, NY

Tim Law is the kind of guy the industry currently can't stop talking about. He's under 40. He knows

how to fix a machine, and he loves selling tractors. He and his brother Eric, who's also under 40, just four years ago took over from their parents as the ownership duo of CNY Farm Supply in Cortland, NY 35 minutes from Syracuse in a



(Approval granted by Power Equipment Trade magazine for use of article on Farms, Homeowners & ATVs by NY Dealer, from Jessica Johnson)

heavy hobby farm, horse farm, dairy farm area of central New York close to Pennsylvania. And while Law knows he's somewhat of a unicorn in his chosen profession, he absolutely loves it just the same—especially after a year like 2020, when the business had one of its best ever despite a consistently empty showroom. “We’re young,” he says of himself and his brother. “But we’re just getting started, paying down debt as fast as we can.”

The dealership, like many, had a very good year last year, and is seeing things not really changing for 2021—though product availability does continue to plague the sales staff. Law estimates that they were doing okay with most equipment, keeping up with the supply and demand until the summer hit. Then everything went haywire.

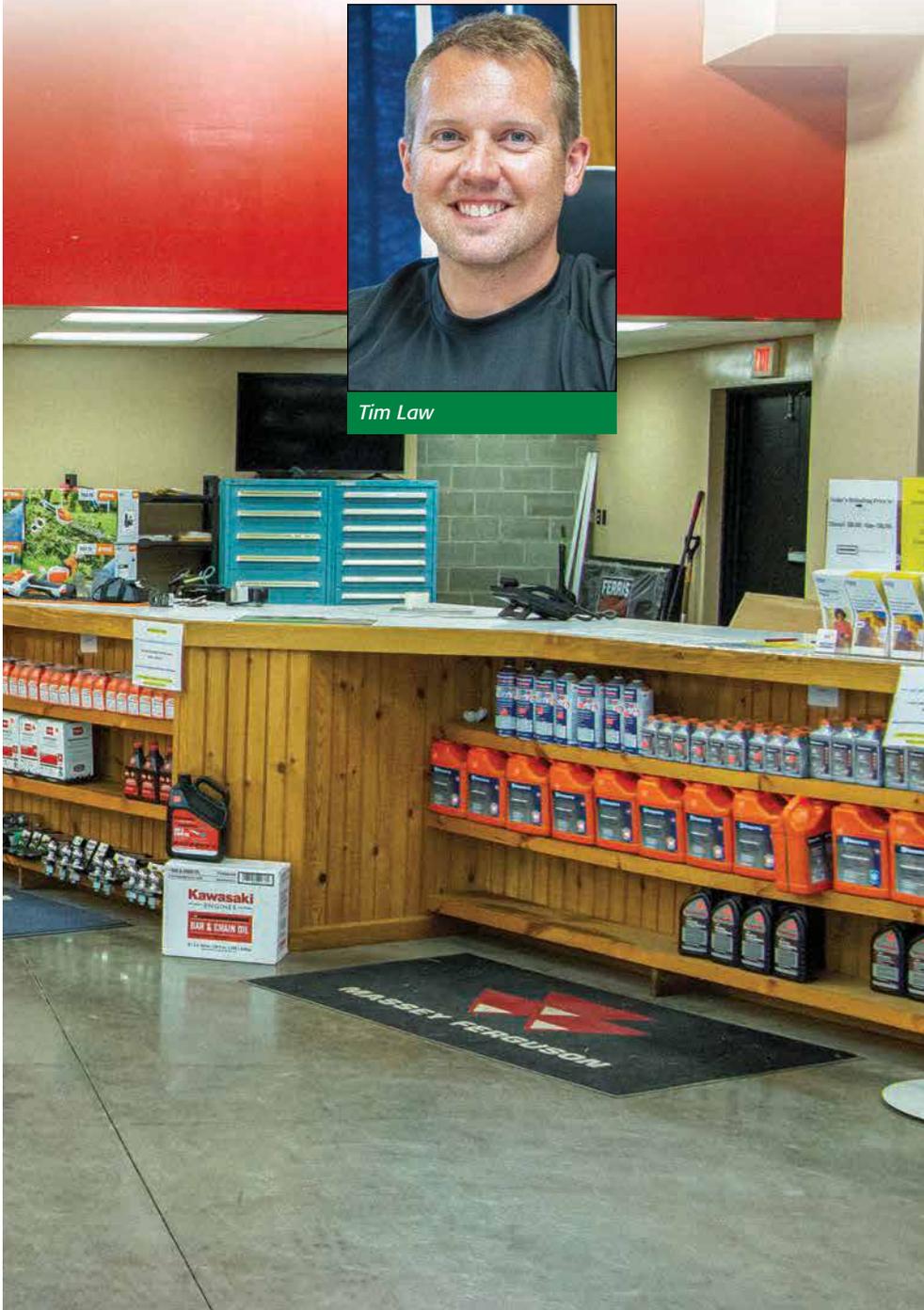
CNY Farm is completely sold out of machines ranging in 23 HP to 120 HP, and has been since around June and will not have anything available until October. As a diversification stream, CNY also deals side-by-sides and ATVs, which have also been steady sellers in '20 and '21 and have also experienced supply issues. Law explains, “I am getting things like I would in a normal year, maybe 5% more, but the difference is consumer demand. People are buying them so frequently. Buying them faster than we can get them.”



Stihl handheld dominates CNY's sales because everyone needs something from the line.



Tim Law



In trying to keep track of what's coming in the future, and what the demand is, for the first time ever CNY has bulletin boards near the sales staff desks with lists. On these lists is everything coming in, including the date. So, when people call or come in looking for a certain piece, Law and his guys can go to the boards, see what's coming next and offer it to them. “Half that stuff already has a name by it,” he says. “There's product coming in September and October that's already spoken for. The frustrating part is telling people the same story, over and over. ‘We don't have anything and it really sucks not being able to show you something.’ People don't understand why and you have to explain to them it is not a product shortage, people are just buying more stuff.”

While it is frustrating to continue to try to serve customers as the demand shoots off the lists, Law sheepishly admits it's a good time to be in sales. He says firmly they aren't rude with customers, but it's simply a demand issue. If someone doesn't want something that's okay—they will have a call tomorrow where someone does want that exact piece. But there's also a very strong upside for Law, he says: “There's no haggling, there's no discounts. It's not that we don't want to take care of the customer like that; I just don't need to. It makes it easy to price stuff. We're not trying to be rude about that, but on the positive side from a business standpoint, yeah, you're doing just as much business, maybe a little less because of availability on some products, but you're making more money because everything is being sold at full retail price.”

He believes that 2022 will see more of the same higher demand, creating an even longer time before products are going to be available again regularly.



The parts & service departments operate in a building double the size of the showroom.

His estimate is that 2023 will be the year the bubble bursts, so-to-speak: With buyer's remorse hitting some hard, more machines being readily in stock and then the potential for better deals between new and used machines.

But for all the good of the last few years, the business still gave the Laws plenty of headaches. Even more so when Tim thinks about how many family businesses aren't successful. "It's a lot on our shoulders and sometimes it's hard to sleep. One of the biggest things for us is that Eric and I just click together really well," he says. "We are constantly pushing and pushing to grow and lead by example and work strong together. Everything we've done has been for a reason."

And that example is very evident in how the dealership operates. At the time of *Power Equipment Trade's* visit, Tim was in the set-up warehouse hosing off a machine about to go to a farm show. The dealership was a bustling activity center with sales staff straightening product and cleaning things up. The music was going, and everyone seemed to be in a good mood. It's hard to imagine that the Laws might not get great sleep at night on a day like that.

But still, Tim shares, he wonders. Do they fight through the next few years and stay with it? Or is the cost of machines, and therefore the cost of living going to rise to a level that becomes insurmountable for a small business like his?

"As the expenses for everything keep going up—even in our business—and it's not like I can make that much more money on everything that I sell to offset the expenses but also offset what I have to pay to get my employees to come to work. You're going to find a lot of businesses that are going to try and do as much work as they do now with less people," he believes.

A hopeful saving grace for businesses like the Laws is the push to move

toward keeping spending local, and that people would like to do business with a local, family business. The brothers wear many hats, but most importantly are extremely hands on and visible to their customers and employees. While CNY has five in the sales staff, both Tim and Eric sell as well. "Just like in any busi-

ness, everyone wants to deal with the owner. My guys sell a lot of equipment, but we sell double," Tim laughs.

Daily Operations

CNY sits on 10 acres, with multiple buildings—a 100 x 200 building houses the sales staff and administration, with 10,000 sq. ft. of showroom space and a set-up/accessories install area in the back. The shop and parts building is "basically double" Law estimates, housing the small CNY rental department, and all parts and service staff. Of the 30 total CNY employees, only 10 are in the showroom building. "It's a big beehive up there," Law says of the shop. Both buildings have large warehouse spaces for their respective departments.

Overall the dealership had a \$23 million year last year, which Law says sounds like a whole lot, but doesn't account for the significant amount of costs that are also factored in. Volume-wise, handheld equipment and lawn and garden dominates CNY sales because everyone from a residential homeowner to a 100-plus acre dairy farmer needs those machines.

He laughs, though, as he admits, "It's takes a lot of \$200 weed-whackers to make up for a \$100,000 tractor for sure." CNY is a top dealer for Ferris zero-turn mowers, which Law notes with pride "are built right here in New York."

In addition to Ferris, CNY is a dealer for Massey Ferguson, Stihl, Ventrac, ROC hay mergers, Kawaskai, Honda (power equipment and power sports), Land Pride, CLAAS, New Holland, Husqvarna, Toro, SnowEx, Sunflower and Meyer.

They used to focus more on power sports, selling a lot of mo-

torcycles and snowmobiles Law says, but two years ago the brothers made the decision to condense their offerings. While the toy business was fun to be in for a while, it quickly became not fun as it is a challenging industry to service, he says. Explaining, "If you're not making any money why are you doing it at all? The consumers are hard to work with. That's their hobby. When you buy a lawnmower, obviously, hopefully everything goes great. But people are prone to know that it might take a day or two to get it ready. It's going to happen. On their day off, if the motorcycle breaks on that day it's like the world collided on them."

The Beehive

Between 12 and 13 staff the CNY service department, supported by six parts personnel and truck drivers who handle pick up and delivery. Law says the potential to do more in the service department is there, and there's a potential for a lot of money to be made. "It takes all of them to handle all of the calls after we seven sell."

CNY's service department currently takes pieces bought elsewhere for repair, but it isn't what Law prefers. Part of that is short staffing, Law says he'd love to find one or two more technicians to turn wrenches and help out, but the other part is making sure that servicing customers who purchased from him are the priority. It's hard for anyone to turn away business; he admits it's one of the biggest things he and Eric struggle with, but his staff can barely keep up with that they do sell.

"How do I slide somebody that bought something from Home Depot or Lowes and not us in front of one of my customers that did buy from us. We try to help them out as best we can, but if there's an emergency, my customers come first. Why didn't you buy it from us?" he emphasizes.

PET



The sales staff have phones and desks immediately to the left of the front door to the showroom.



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HR Question of the Month

Can a business require employees to show proof they are vaccinated against Covid-19? If the employee is not vaccinated or refuses to show proof of vaccination can the business legally require those employees who are not vaccinated or refuses to show proof of vaccination to wear a mask inside the business?

Answer

Within the guidelines set forth by the federal Equal Employment Opportunity Commission (EEOC), employers are not prohibited from asking applicants and employees whether they have received the COVID-19 vaccine and if they have, can also request receipts of such vaccinations. We recommend reviewing this guidance which can be found at section K **HERE**), particularly at question K.9. which provides:

“K.9. Under the ADA, is it a ‘disability-related inquiry’ for an employer to inquire about or request documentation or other confirmation that an employee obtained the COVID-19 vaccine from a third party in the community, such as a pharmacy, personal health care provider, or public clinic? (12/16/20, updated 5/28/21)

No. When an employer asks employees whether they obtained a COVID-19 vaccine from a third party in the community, such as a pharmacy, personal health care provider, or public clinic, the employer is not asking a question that is likely to disclose the existence of a disability; there are many reasons an employee may not show documentation or other confirmation of vaccination in the community besides having a disability. Therefore, requesting documentation or other confirmation of vaccination by a third party in the community is not a disability-related inquiry under the ADA, and the ADA’s rules about such inquiries do not apply.

However, documentation or other confirmation of vaccination provided by the employee to the employer is medical information about the employee and must be kept confidential.”

Thus, an employer can ask about COVID-19 vaccination statuses and for proof of the same if employees or applicants indicate they are so vaccinated. To the extent the employer will seek to make inquiry about COVID-19 vaccination status, it should do so individually and not in a group setting and make such inquiry of all employees and/or applicants and not just some without others. The employer should determine the appropriate representative/agent to make such inquiries of employees if it does so. Individual managers or supervisors can be tasked with securing this information, or perhaps HR personnel may do so. Regardless, the employer has an obligation to ensure that those asking the questions and receiving the answers do so in a manner that maintains confidentiality as required by law. Indeed, question K.4. at the link above provides:

“Is information about an employee’s COVID-19 vaccination confidential medical information under the ADA?” (5/28/21)

Yes. The ADA requires an employer to maintain the confidentiality of employee medical information, such as documentation or other confirmation of COVID-19 vaccination. This ADA confidentiality requirement applies regardless of where the employee gets the vaccination. Although the EEO laws themselves do not prevent employers from requiring employees to bring in documentation or other confirmation of vaccination, this information, like all

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HR Question of the Month

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medical information, must be kept confidential and stored separately from the employee's personnel files under the ADA."

For more information, please click **HERE**.

The EEOC also supports employers that seek to require employees to be vaccinated as a condition of employment, so long as employers provide reasonable accommodations under Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA) based on any one or more employees sincerely held religious beliefs or disability, respectively. In this regard, the EEOC guidance first linked above at question K.1. provides in part:

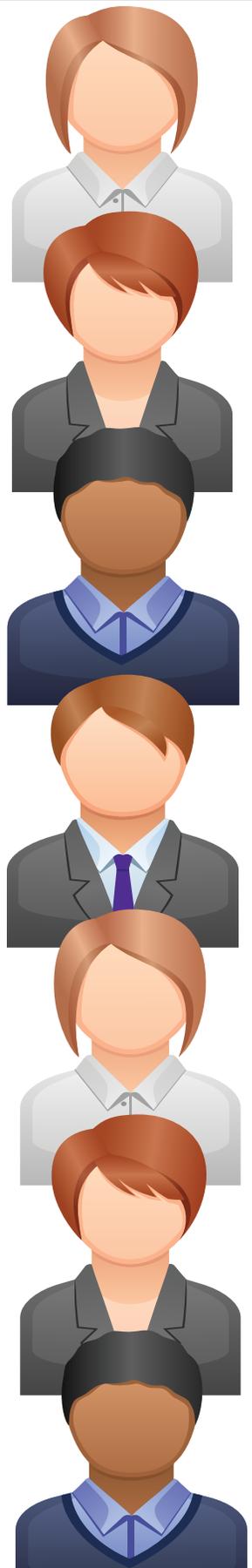
"Under the ADA, Title VII, and other federal employment nondiscrimination laws, may an employer require all employees physically entering the workplace to be vaccinated for COVID-19? (5/28/21)

The federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, **subject to the reasonable accommodation provisions of Title VII and the ADA and other EEO considerations discussed below.** These principles apply if an employee gets the vaccine in the community or from the employer. ... In some circumstances, Title VII and the ADA require an employer to provide reasonable accommodations for employees who, because of a disability or a sincerely held religious belief, practice, or observance, do not get vaccinated for COVID-19, unless providing an accommodation would pose an undue hardship on the operation of the employer's business. The analysis for undue hardship depends on whether the accommodation is for a disability (including pregnancy-related conditions that constitute a disability) (see K.6) or for religion (see K.12)..."

As to masks and facial coverings, note as well that the Center for Disease Prevention and Control (CDC) issued guidance relaxing mask requirements for individuals who have been "fully vaccinated" against COVID-19 (**see <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>**). Bear in mind also that employers have long had an obligation under occupational safety and health laws to provide and preserve a safe and healthy workplace. Accordingly, employers should consult counsel before making determinations about the propriety of abandoning mask usage for personnel when at work indoors and/or on company property, and particularly as to employees who are not vaccinated or refuse to disclose their vaccination status. The federal Occupational Safety and Health Administration (OSHA) has updated its guidance following the recent adjustments by the CDC **HERE** which you may wish to review for more information.

Some states and locales have also passed legislation and/or issued guidance regarding mask usage and/or mask abandonment in the workplace. You will want to confer with local counsel in your jurisdiction for specific legal advice and to ensure compliance within your organization.

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SALES SUCCESS LESSONS I LEARNED FROM MY MOM

My mom passed away a few years ago. I've since realized that a lot of what she stood for, and a lot of what she taught me, led to my sales success. As I looked deeper, I realized that most of her examples also had to do with success in life, not just sales. Here's what I learned.

Mom's Lessons for Sales and Life Success

Perseverance and stick-to-itiveness

I remember my first job out of college as a stock broker. I was having a really tough time and I was going to quit. When I called my mom to tell her she said, "John, anything in life worth having isn't going to be easy. It's going to be tough. Life will test you to see how serious you are, how badly you want it, how committed you are to your dream. And here's the thing, all you have to do is hang in there long enough without quitting. If you hang in long enough, eventually the tide will turn in your favor and you'll win. Every time." I stayed, and the tide turned shortly thereafter and within two years I was the youngest branch manager in the country. When I started my speaking business in the Fall of 2008 and the economy subsequently dropped off the cliff and the speaking business imploded. I remembered what my mom said, "If you hang in long enough, eventually the tide will turn." And it did. She was right again.

Mom's lesson: The bigger and more important the endeavor, the more difficult the journey and the more likely there will be temptation to quit at some point. You don't fail until you quit, and in order to succeed, you need to persevere long enough, and hang on after others have let go.

Commitment

My mom was a substitute teacher for many years. One time they called her to substitute teach and she was really sick with the flu, but she felt an obligation to help out. So she put herself together as best she could and went to work. Later I asked her why she agreed to teach when she was that sick. She said, "John, people rely on me when other people are sick. I'm not supposed to be sick. In life, it doesn't matter how you feel physically or mentally, what matters is the commitments you make and that you live up to them, in good times and bad, whether you feel like it or not."

Mom's lesson: Commit and be all-in. The client doesn't care how you feel, or about any other excuses you have as to why something didn't get done. They just want what they were promised when they were promised they have it by.

Go above and beyond; add that little "extra."

My mom believed if you're going to do something, you do it right and you do it all out. She always pushed herself to continually improve and be the best she could be. It started in school where she was her high school class valedictorian, and in college where she got straight A's. But it wasn't just the "big" things that she took seriously. She always believed in doing even the smallest things at the highest level. I remember the Halloween I wanted to be a ghost. That's easy right? A sheet, two holes for the eyes, done. Not my mom's ghost. I mean, I was the ghost but the ghost outfit was going to represent my mom. She had that sheet on me 4 nights in a row, adjusting, cutting, sewing, tailoring, and changing. The fifth night came, Halloween, she put that sheet on me, and made a few final changes before sending the perfect ghost off into the night.

Mom's lesson: If something's worth doing, it's worth doing right. Always take it to the next level by doing more than you get paid for and delivering more than people expect. Everything you do reflect back on you.

continued on page 23



BY JOHN CHAPIN

The bigger and more important the endeavor, the more difficult the journey and the more likely there will be temptation to quit at some point.

SALESUCCESSIONS

continued on page 23

Mom's second lesson from this example: Leave no stone unturned. You want to make sure you do everything you can to win a sale. As a last-ditch effort, any time I lost a sale I used to ask, "Is it a done deal? Is there anything I can do to still get the business?" This led to me getting the "lost sale" back about 40% of the time.

Be a team player. Make people feel important and special.

In public my mom always had a smile on her face and a spring in her step, she was positive and upbeat. She wanted to leave a good impression on people and she wanted to make sure they felt good and important when she was talking to them. What people didn't see behind the scenes, was the enormous pressure my mom put on her to be the perfect mom and wife. She never let people see the weight she carried on her shoulders, and regardless of that weight, she put her game face on in public, and got done what needed to get done from coaching softball, to teaching, to everything she did in the church, to everything she did for her family. She always put others first. She was a team player and always wanted to help, as in the example of teaching when she had the flu. She understood that it wasn't just about her, she had an obligation to her family, those she worked with, and those she made commitments to.

Mom's lesson: At the end of the day it's all about people and relationships. As Zig Ziglar used to say, "You will get all you want in life, if you help enough other people get what they want." This is also another great example of commitment. Finally, if you find yourself in a comfort zone because you think you're making enough money, remember: it's also about being in a position to help others.

I always said I got my backbone from my mom. My mom projected a solid character and inner strength. She exemplified in her words and deeds how important it is to have a strong belief in yourself and what you stand for. My mom's legacy is one of perseverance, commitment, and keeping your priorities straight along with your obligations. Doing what you do what you need to do, what you committed to do, without complaining, and regardless of how you feel physically or mentally. That you keep going no matter what and never quit until you succeed. That your word is your bond. And at the end of the day, that you help as many people as possible.

Thanks mom.

John Chapin is a motivational sales speaker and trainer. For his free newsletter, go to: www.completeselling.com John has over 29 years of sales experience as a number one sales rep and is the author of the 2010 sales book of the year: *Sales Encyclopedia*. (Axiom Book Awards) - The largest sales book on the planet (678 pages). Call 508-243-7359 or email johnchapin@completeselling.com.

EPA PROVIDES COMPLIANCE ASSISTANTS MATERIALS

Did you know the EPA provides compliance assistance materials for illegal tampering that can be used at your dealership. Feel free to share these within your dealership.

Click on the links below to get your compliance materials:

Anti Tampering Pamphlet

Anti Tampering Poster

EPA Enforcement Alert - Tampering Do's & Don'ts

EPA Fact Sheet - Aftermarket Do's and Don'ts - Tampering

Or go to: <https://www.ne-equip.org/resources/right-to-repair/>

Penn State Ag Law Center: On-line Tool for Constructing an Employee Manual

Thanks for Bill Troxell for sharing this resource. CISA ("Community Involved in Agriculture) is a non-profit in Massachusetts that has a lot of resources for farming operations. Through grant funding they have come up with an on-line tool for developing an employee manual. It may be Massachusetts-centric, but I haven't worked through all the screens to see if in fact there is anything that would not be accurate or **applicable for other dealers in the northeast. Hit the link and look below if this is of interest to your dealership. If interested, wording can be changed to suit your state.** <https://www.buylocalfood.org/resources-for-farmers/labor-law-and-management/employee-manuals/>

Courtesy of: Brook Duer, Staff Attorney, Center for Agricultural and Shale Law, cell (717) 874-0935.

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