

FACT: The nation's seven leading brands accounted for 91% of the new motorcycle unit sales in 2003.

Honda - 27.4%, Harley-Davidson/Buell - 23.7%, Yamaha - 17.4%, Suzuki - 10.8%, Kawasaki - 8.7%, Other - 8.7%, KTM - 1.7%, BMW - 1.6%

Source: Motorcycle Industry Council, 2004 Statistical Annual

seasons greetings &
happy holidays from tmda!



TMDA wishes each member a safe and happy holiday season. The TMDA offices will be closed from December 23 through January 3 in observance of the holidays.



Texas Motorcycle Dealers Association
823 Congress Avenue, Suite 230
Austin, Texas 78701



823 Congress Ave., Suite 230
Austin, TX 78701 • 512/479-0425
Fax: 512/495-9031 • Email: tmda@eam.com

OFFICERS

President, Morris Baker
Honda of Lubbock, Lubbock
Vice President, Al Lamb
Dallas Honda, Dallas
Secretary, Bob Kee
Destination Cycle Sports, Kerrville
Treasurer, Steve Littlefield
Central Texas Power Sports, Georgetown
Past President, Robert Barger
Barger's Allsports, Waco

BOARD OF DIRECTORS

Gene Anderson
Gene's Polaris Country, Inc., Mon Belview
Lisa Bliss
Joe Harrison Motor Sports, San Antonio
Gene Brady
Pasadena Honda, Pasadena
Jim Foster
Killeen Power Sports, Inc., Killeen
Mark Lamb
DFW Honda, Grapevine
Randall Latch
Fun Motors of Longview, Longview
Ronnie Lunsford
Northwest Honda, Houston
Scott Ross
Ross Motorsports, Lufkin
Alvin Sharp
Sharp's Motorsports, Inc., Amarillo
Irvin Thomas
Irv Thomas Honda, Corpus Christi

STAFF

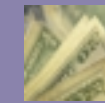
Mike Marks
Executive Director



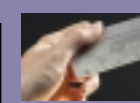
WHAT'S INSIDE:



use of medical information for creditors
PAGE 2



texas taxes: what if I don't agree with results of my audit?
PAGE 2



credit card fraud prevention, VISA/MasterCard litigation
PAGE 4

published by the texas motorcycle dealers association

motorcycle DEALER news

NOV-DEC 2005

register today for the 2006 tmda annual conference

february 18-19, hotel finisterra cabo san lucas, mexico



Mark your calendars and make plans to attend the 2006 TMDA Annual Conference, February 18-19 in Cabo San Lucas, Mexico.

Education & Networking

Kickoff the meeting by networking with peers at a welcome reception on Saturday, February 18. After breakfast on Sunday

morning, a panel of TMDA board members will lead round table discussions on issues facing motorcycle dealerships. The conference will conclude with lunch and a General Business Meeting

Hotel Information

TMDA has reserved a block of rooms at the Hotel Finisterra Cabo San Lucas for conference attendees at a special rate of \$237.90 (including tax and gratuities) if reservations are made prior to **January 16, 2005**. Please use the enclosed reservation form to make your reservation. This special rate has been reserved over the dates of **February 16-21**, so come early and enjoy an extended vacation with your family and/or friends!

TMDA members will not want to miss this year's conference! If you have questions please contact the association at 512/479-0425. Please see the enclosed flyer for conference registration.

national council of motorcycle dealer associations, inc. organized

Key State Motorcycle Dealer Association executives met in Dallas, Texas November 15, 2005 and decided to formalize and expand the mission of the Motorcycle Trade Association Executives (MTAE). State associations have for five years networked and occasionally met under the banner of MTAE. While the exchanges were worthwhile, it was felt that a greater resource was needed for existing state association and to assist in the formation of new ones.

The purpose for which the National Council of Motorcycle Dealer Associations, Inc. is organized is as follows:

1. To be a resource for all state dealer associations.
2. To promote the welfare of all state dealer associations.
3. To strengthen existing state motorcycle dealer associations.

continued on page 5

'06 tmda annual conference

Schedule of Events

Saturday, February 18

5:00 - 6:00 p.m.

Registration

5:30 - 6:30 p.m.

Welcome Reception at Hotel

7:00 p.m.

Dinner at Edith's Restaurant

Sunday, February 19

8:30 a.m.

Registration

8:30 - 9:00 a.m.

Continental Breakfast

9:00 - Noon

Roundtable Discussions

TMDA General Business Meeting

Noon - 1:30 p.m.

Lunch

2:00 p.m.

Golf Tournament / Fishing Trip
or Free Time

federal reserve board imposes restrictions on ability of creditors to obtain and use medical information dealers should check compliance checklists



The Federal Reserve Board (FRB) and the other federal banking regulatory agencies recently issued a joint Interim Final Rule imposing restrictions on the ability of creditors to obtain and use medical information in connection with credit eligibility decisions and to share that information with their affiliates. Medical information is broadly defined to include such items as the payment

history and status of a consumer's medical debts and any amount of disability income the consumer receives. At the urging of industry leaders and others, the agencies agreed that the FRB would issue a separate rule, known as Regulation FF, to extend to dealers and other non-bank creditors critical exceptions that permit them to obtain and use medical information in certain limited circumstances. Regulation FF, which implements section 411 of the FACT Act, takes effect *March 7, 2006*.

Dealers should ensure that Regulation FF is included in their compliance checklists along with other FRB rules that impact their operations (Regulations B, M and Z).

texas taxes: what if I don't agree with the results of my audit?

At the Comptroller's office, we want to be fair and give all taxpayers full consideration in every case. You have a right to "your day in court" to protest any audit result you feel is wrong. Here are some common questions and answers to help explain your rights and how to exercise them.

Question: My business is being audited, and I disagree with some of the items being scheduled by the auditor. What should I do?

Answer: We strongly encourage you to meet with both the auditor and the auditor's supervisor or manager while the fieldwork is ongoing to discuss and resolve any issues. If any issues remain unresolved, you have the right to protest any audit assessment you consider to be wrong by requesting a dispute resolution conference.

Question: What is a dispute resolution conference?

Answer: The conference is an opportunity for you to meet with a third party to resolve disputes in the audit before it is reviewed and billed. Issues you can discuss in the conference

include taxability of items included in the audit findings, accounting or auditing disputes, and waiver of penalty and interest.

Question: Who will conduct the conference?

Answer: A dispute resolution officer (DRO) will conduct the conference. The DRO is a Comptroller employee who is an experienced former auditor/supervisor who reports directly to our Audit Division manager. The DRO is not assigned to any field office that conducts audits. The DRO will listen to your concerns regarding the audit and will make an independent and impartial review of the facts as presented by both you and the auditor.

Question: How do I schedule a dispute resolution conference?

Answer: When you and the auditor hold the exit conference for your audit, let the auditor know the issues that you disagree with and request a conference with the DRO. The auditor will notify his/her su-

continued on page 3

Universal Underwriters Group

proudly supports the Texas Motorcycle Dealers Association

our focus is your success

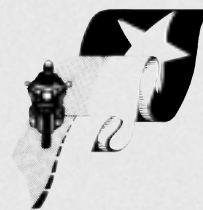
Since 1922, Universal Underwriters Insurance Company has demonstrated strength and stability as the leader in dealership insurance. We view your dealership through the lens of experience, focusing on your business. Our mission is clear -- know dealers' needs and become a partner in your success.

Call Universal Underwriters' Texas Regional Offices and see for yourself:

Wayne Knippers in Houston at 800-622-2660

Winn Tripp in Dallas at 800-622-6262

Endorsed by:



Texas Motorcycle
Dealers Association



UNIVERSAL UNDERWRITERS GROUP

A member of the Zurich Financial Services Group

M10380DC © Copyright 2003 Universal Underwriters Insurance Company

Benefits Benefits Benefits Benefits Updates

**APPI savings solutions:
energy costs to
increase dramatically**

Energy costs have increased dramatically this fall. Hurricanes in the Gulf Coast and increased consumer demand are responsible for escalated energy prices:

Hurricanes in the Gulf Coast: The massive hurricanes, Katrina and Rita, caused shut-downs of natural gas production facilities and refining operations in Texas and Louisiana. More than 100 platforms in the Gulf of Mexico were destroyed and another 50 experienced extensive damage. As of mid-November, there are still several processing plants, with capacities greater than 100 million cubic feet that are not active (U.S. Department of Energy, 11/16/2005). Uncertainties of schedules for bringing production facilities back online will likely result in continued market turmoil over the next few months.

Supply and demand: Consumer demand for electricity continues to fuel increases in prices for already costly energy sources. From June 2004 to June 2005, consumption of coal and natural gas for electric power generation increased by 3.9% and 17.3%, respectively. Natural gas prices have increased 14.6% from January to May, and coal prices are up 16.7% from May 2004.

As winter arrives, NOAA officials forecast that this winter in the eastern U.S. will be warmer than the past 30-year average, but colder than last year. For central and western states, NOAA is predicting warmer than average temperatures (noaa.gov).

Growing demand is anticipated for natural

gas and heating oil as we enter the winter heating season. The combination of an already tight demand-supply ratio and increasing consumer demand should keep natural gas prices elevated, with continued price increases likely.

How can you lower operating expenses? If you have business locations in MA, MD, NY, or TX, you may be able to reduce your electricity costs and avoid future price increases. Utilities in Massachusetts and Texas have announced significant price increases for many of their business customers. These increases range from 45 – 80 percent. Members in MA, MD, NY and TX have opportunities to secure a rate that is lower than standard utility rates and should contact APPI immediately.

Members in all states may lower operating expenses through APPI's Utility Audit Service. The audit includes a thorough analysis of energy (electricity and natural gas), water, waste removal/recycling, freight, and telecommunications (voice and data) services. APPI analyzes all fees, tariff rates, and service plans to find savings. There are savings found in one or more of these areas for most companies, with savings ranging from 10 to 25%.

Fax in last month's utility bills (410-749-8769) and APPI will take care of the rest. Remember, APPI services are performed at no upfront charge.

For more details, contact APPI at 800-520-6685 or info@appienergy.com. Visit APPI's website at www.appienergy.com.

texas taxes

continued from page 2

pervisor or manager, and they will contact the DRO to set up an appointment at a mutually acceptable date and location.

Question: The appointment is set, what do I do now?

Answer: When you attend the conference, be prepared to discuss the issues you dispute. Bring the necessary records and information that support your position. Since interest continues to accrue until the final audit assessment is paid, it may be to your advantage to pay any part of the audit with which you agree. Interest will stop accruing on the amount paid.

Question: By participating in the dispute resolution conference process, do I waive all of my other rights?

Answer: No. If your issues are not resolved in the conference, you can still request a redetermination hearing. Or, if you pay the audit assessment, you can request a refund hearing. For more information on the dispute resolution conference, please see Comptroller publication #96-321 - Dispute Resolution Conference (March 2003).

Question: I went through a dispute resolution conference but certain issues in my audit were not resolved. What happens now?

Answer: The Texas Notification of Audit Results (the bill) is the Comptroller's official determination of the results of your audit. After you receive the Notification, you have two options:

If you do not agree with the audit results, you can request a redetermination hearing by sending a statement of grounds. Your statement of grounds must be postmarked

on or before the due date indicated on the Notification (30 days after the date of the Notification). You are not required to pay the assessment amount indicated on the Notification, but if you do not pay, interest continues to accrue on the amount of tax ultimately determined to be due. If you miss the deadline for requesting a redetermination hearing, you must pay the entire liability. You can then request a refund hearing (You may request a redetermination even if the only items you dispute are the assessment of audit penalty and interest.)

If you agree with the audit results, send a check or money order payable to the State Comptroller for the total liability as shown on the Notification, plus any additional interest that has accrued from the date of Notification. An additional 10 percent late payment penalty (in addition to the penalty shown on the Notification) becomes due 40 days after the Notification date. Interest continues to accrue on the tax amount until the Notification is paid or the tax is refunded to you.

Question: You mentioned statement of grounds. What is that?

Answer: Your statement of grounds must list the items in the audit that you dispute. These items may be listed individually or by category. You must explain why you disagree. If you disagree with the auditor's interpretation of the law, you must cite legal authority for your position.

Question: What happens after I send in my statement of grounds?

Answer: If your request is timely and complete, we will send you a letter acknowledging

the receipt of the request and granting you 60 days to give the auditor any additional documentation that supports your statement of grounds.

Question: Then what happens?

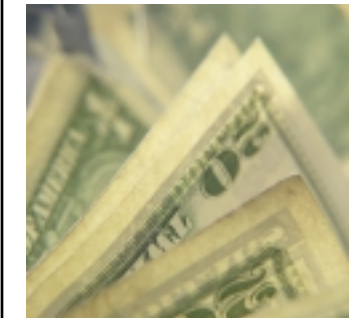
Answer: If the auditor agrees with all your contentions, the audit will be amended and no hearing will be held. If any issues remain unresolved, your case will be assigned to a hearings attorney who will contact you or your representative to resolve the case. The hearings attorney will review your case and prepare a position letter explaining the position being taken in your case by the Tax Administration Division. You can either accept the position stated in this letter or you can ask to have an administrative law judge (ALJ) hear your case.

Question: What if I decide to have an ALJ hear my case?

Answer: If you want an oral hearing, you will receive a notice indicating the date, time, and place you are to appear to present your evidence and argument. If you want your case considered on the basis of written submissions, you will be given a deadline to get these to the ALJ for review.

After the oral hearing or review of the written evidence and arguments, the ALJ will propose a decision to you and to the Tax Administration Division. The Comptroller will render the final decision.

If you disagree with the Comptroller's final decision, you can challenge the decision in court by filing a refund or protest suit.



for more information

For more information on how to exercise your rights as a Texas taxpayer, please see Comptroller publication #96-129, What if I Don't Agree with the Results of my Audit (October 2003). This publication is available through our website at <http://www.window.state.tx.us>.

Carol Keeton Strayborn is the Texas Comptroller of Public Accounts. If you have questions or need more information about these or other state taxes, call the Comptroller's office toll-free at 1-800-252-1382 (in Austin, 512/463-4600), or email us at taxhelp@cpa.state.tx.us.

register today! 2006 tmda annual conference

February 18-19, 2006

Hotel Finisterra

Cabo San Lucas, BCS, Mexico

Hotel accommodations available for February 16-21



Hotel Finisterra is located at the southern tip of the Baja California peninsula in Cabo San Lucas, Los Cabos, Mexico, approximately 1,000 miles south of the United States/Mexico border. Perched on a hill, the hotel overlooks the town of Cabo San Lucas, with the Sea of Cortez to the east and the Pacific Ocean to the west. The location of the hotel offers incredible views complimented by a feeling of seclusion, but also provides easy access to the center of town. Situated on a secluded private beach you'll find the spectacular Palapa Beach Club with inviting rooms and suites, a lavish pool and more, all in an exquisite natural setting. You'll also enjoy the Whale Watcher Bar, the critically acclaimed Blue Marlin restaurant, a boutique, gymnasium and seven acres of private beach.



txdot does not accept electronic signatures

The Texas Department of Transportation has been informed that some Texas title and registration transactions bearing electronic signatures may have inadvertently been processed. To clarify the policy on this matter, the department does NOT currently accept electronic signatures on any transfer of ownership or registration documents. Only original and handwritten signatures are acceptable, with a few exceptions such as on certified copies of court documents.

credit card fraud prevention risk management measures to reduce risk

In recent months, several dealers have reported being the victim of credit card fraud directed at their parts departments. These incidents should remind dealers of the need to carefully scrutinize telephone or other credit card orders from unfamiliar persons. The following are some risk management measures that various organizations have recommended to reduce this risk:

- Take extra steps to validate each order. Do not accept orders unless complete information is provided (including full address and phone number);
- When taking orders, ask for the three-digit number imprinted on the signature panel of the credit card. This will help verify that the customer is in actual possession of the card. If

the purchaser only has the 16-digit credit card number and the expiration date, he may not physically possess the card, signaling a potentially fraudulent transaction;

- Be very wary of orders with different "bill to" and "ship to" addresses;
- Be extra cautious with transactions involving any of the following; first-time shoppers, orders placed by fax or e-mail (particularly those originating from a free e-mail address or an e-mail forwarding address), larger than normal orders, orders consisting of several of the same item, orders made up of "big-ticket" items, orders shipped "rush" or "overnight" and orders shipped to an international address. Do everything

you can to validate an order before shipping your product to a different country;

- If you are ever suspicious about a card, call your credit card authorization center; and
 - If you have the misfortune of being scammed by a credit card thief, contact your merchant processor immediately and inform the processor of the situation. Be advised that some credit card companies offer a safeguards program to protect against this risk.
- The foregoing is not an exhaustive list of credit card fraud prevention measures. Rather, it is intended to alert dealers to recent reports of these occurrences and reinforce the need to include credit card fraud prevention in employee training programs.

VISA/Mastercard litigation class action settlement

dealers may share in proceeds of \$3.383 billion settlement



Dealers have questioned whether they are eligible to share in the proceeds of a \$3.383 billion settlement of an antitrust action filed against VISA and MasterCard. Dealers in several states have been approached by companies who have offered to file claims on behalf of dealers in return for a share of any proceeds collected.

It appears that some dealers may be entitled to file a claim. Furthermore, a "simplified" process is in place that should allow dealers to file a claim without the assistance of an outside vendor. Information on how dealers can pursue this matter is provided below:

The settlement became final on May 31, 2005, when appeals to the U.S. Supreme Court were denied or the time period of filing such appeals expired. The litigation was filed in 1996 and covers entities who accepted VISA and/or MasterCard credit cards and therefore had been required to accept VISA Check and/or MasterCard debit cards. The suit alleged that the defendants had engaged in an illegal tying arrangement. The time period covered by the settlement is October 25, 2002 to June 21, 2003.

Claim forms have been recently mailed to over five million merchants. Dealers wanting to find out more about this settlement and how to obtain a claim form are advised to go to the following website: www.constantincannon.com/visa_check_case/visa_check_case.html.

Dealers may also contact the claims administrator at: www.inrevisacheckmastermoneyantitrustlitigation.com. The administrator's phone number is 1-888-641-4437.

Dealers are advised that this notice about this settlement is for informational purposes only. It should not be construed as legal advice or any recommendation about whether to file a claim. The decision to do so is up to each dealer. If dealers have questions, they are strongly urged to contact their legal counsel.

council organized,

continued from page 1

4. To assist in the reactivation of dormant state dealer associations.

5. To promote and assist in the formation of new state motorcycle dealer associations.

6. To develop a basis for forward planning of new state motorcycle dealer associations.

7. To facilitate and promote the sharing of information among all state motorcycle dealer associations with respect to state and federal legislation.

8. To facilitate and promote sharing of information among all state motorcycle dealer associations with respect to recruitment of membership, retention of experienced and effective association management, selection of qualified legal counsel and advisors, and the development of revenue sources.

9. To cooperate wholeheartedly with all state motorcycle and automobile dealer associations.

10. To promote and support state and federal legislation beneficial to motorcycle dealers.

The new organization has been registered as a non profit corporation under the laws of the State of Florida. The registered agent and legal representative is Mr. Robert Bass, Esq. of the law firm Myers and Fuller P.A. Mr. Bass and his firm have extensive experience representing Automobile and Motorcycle Dealers and state dealer associations. They have provided support and counsel on franchise legislation in a number of states. Firm founder, Mr. Dan Myers Esq., has a national reputation as a staunch dealer advocate.

Ed Lemco has been retained as Executive Director. Mr. Lemco is a veteran of 36 years

in the industry, having been an OEM District Manager, a retail dealer and founder of Lemco Management, which continues as a primary source of management information and programs for motorcycle dealers. As a dealer Mr. Lemco served as President of his state dealer association and as Founding Director and subsequently Chairman of the National Motorcycle Dealers Association which existed from 1974 to 1980. He is well known for his position of outspoken dealer advocacy and support of state dealer associations. His expertise on dealer operations has been accepted by state and federal courts, and the Federal Trade Commission.

Organizers of the Council, which will have 50 members, one for each state, are:

- Mike Marks, Texas Motorcycle Dealers Association
- Charles Finley, Virginia Motorcycle Dealers Association
- Wayne Jones, Utah Motorcycle Dealers Association
- John Paliwoda, California Motorcycle Dealers Association
- Corey Mathews, Florida Motorcycle Dealers Association

A formal organization meeting will be held on January 28th, 2006, in Orlando Florida to approve the Articles of Organization and the Bylaws and to elect an Executive Committee to oversee the day to day operations. Every effort will be made to have all 50 states represented at the organizational meeting. A presentation on objectives and goals will be made by Robert Bass and Ed Lemco. Comments and suggestions from all attendees will be welcome.



4 tools for your business

TMDA Endorsed Service Providers

Contact the following TMDA endorsed companies for special member rates on services. Your participation in these programs also benefits TMDA by providing quarterly promotional allowances from the companies.

Discount Credit Card Processing
First National Merchant Solutions
Contact: Chris Lynn
Phone: 866/778-4986

Property & Casualty Insurance
Universal Underwriters
Contact: Wayne Knippers
Phone: 281-405-5226
E-mail: wayne.knippers@zurichna.com

Energy Buyers Program
Affiliated Power Purchasers Int'l
Contact: Bill Kuzmich
Phone: 832/225-1275
E-mail: wkuzmich@appienergy.com
Contact: Mandi Krack
Phone: 800/520-6685
E-mail: mkrack@appienergy.com

Motorcycle and Personal Watercraft Insurance, Motorcycle and Personal Watercraft Service Contracts
The McGraw Group
Contact: Jack Ward
Phone: 512/762-3570
E-mail: csmward@msn.com

To find out more ways you can improve your business, call TMDA at 512.479.0425.