



BULLETIN #16/2020

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CORONAVIRUS UPDATE

GOV. BAKER DECLARES STATE OF EMERGENCY

PROPER PREPARATION NEEDED TO KEEP DEALERSHIPS CLEAN AND SAFE FOR EMPLOYEES AND CUSTOMERS

[This bulletin supplements our Bulletin #11, issued on March 3, 2020.]

Late Tuesday, upon cutting short his vacation and returning to the Commonwealth, Governor Charlie Baker [declared a state of emergency](#) after the number of Coronavirus (COVID-19) cases in Massachusetts more than doubled to 92 overnight. Massachusetts joins about a dozen other states with a formal emergency declaration, as the Coronavirus-caused illness continues to spread in the United States.

At the press conference Governor Baker announced the new numbers, implemented the emergency status, and instructed tens of thousands of executive branch employees to discontinue all work-related travel and work remotely when possible.

Public Health Commissioner Monica Bharel said Massachusetts is at "a critical point in this outbreak," noting that community spread "in which multiple people in an area are infected, some of whom are unable to trace it back to a source" has begun in western Massachusetts.

As of this writing, all but one of the [cases](#) are presumptive positive and have not yet been confirmed by the federal Centers for Disease Control. Seven are in Berkshire County, one is in Essex County, 41 are in Middlesex County, 22 are in Norfolk County, 20 are in Suffolk County, and one is in Worcester County.

The [state-declared emergency](#) right now basically covers restrictions on government-related activities, such as controlling state employee work and travel restrictions, flexibility for school districts to close schools and extend the school year, giving flexibility to health officials to properly respond to the outbreak, ordering the cancellation of large events, or accessing buildings to store protective equipment for first responders. The restrictions will be revisited in 30 days, or sooner if the situation allows. The Governor also suggested private employers allow employees to work from home whenever possible.

State Coronavirus Web Site

As we reported last week in Bulletin #11, Gov. Baker unveiled [a new state web site](#)



[designed to provide updated information for employers and others about the Coronavirus.](#) The site provides a link to the Centers for Disease Control Interim Guidance for Businesses and Employers to respond to the COVID-19 virus, along with a [downloadable poster with tips on minimizing the spread of germs in the workplace.](#)

The Commonwealth notes that, although the risk to Massachusetts residents of the novel Coronavirus is low, the risk for influenza is currently high. Many of the things you do to help prevent colds and the flu can help protect you against other respiratory viruses. As this emergency situation unfolds, the state will post important updates on the web site for the Commonwealth's residents, employers, and employees.

Taking Precautions at Your Dealership

This health situation will surely have a significant impact on a dealership's workforce and business operations, hindering floor traffic resulting in a drop in customer service. Dealers need to take warnings seriously and ensure that your dealership is taking steps to keep staff, customers, and vendors healthy while working at and visiting your business.

Dealerships can enact proper protocols to reduce the possibility of people getting sick from the Coronavirus. In general, OSHA requires all businesses to provide a safe work environment for all employees. A safe work environment includes one that keeps employees safe from known diseases. Below are some steps dealers can take now to try to ensure the health and safety of your staff to prevent illness:

- Encourage employees to wash with soap and water or sanitize hands frequently;
- Make hand sanitizer and boxes of tissues available throughout the dealership;
- Keep anti-bacterial wipes around and frequently wipe down the interior of vehicles in the showroom and demos before/after test drives;
- Treat customer cars that come in for service the same way - disinfect them before your technicians diagnose and repair these vehicles;
- Suggest that, for now, employees may wish to avoid shaking hands;
- Require your cleaning companies to treat all work surfaces, including phones, computers, floors, and restrooms, with proper disinfectants;
- Discourage employees from using other employees' phones, desks, offices, or other work tools and equipment;
- Minimize situations where people are crowded together, like meetings. Use e-mail, phones, and text messages to communicate with each other. When meetings are necessary, avoid close contact by keeping a separation of at least six feet, where possible, and assure that meeting rooms are well-ventilated; and
- Allow employees to work from home when possible - encourage sick employees to stay home by having appropriate dealership policies such as paid sick time.

Dealership Employees' Work Schedules, Compensation

Here are several points to keep in mind as you attempt to prepare for any disruption at



your dealership from the Coronavirus, especially in properly managing exempt/salary and non-exempt/hourly employees:

- If a dealership employee notifies you that he/she has been diagnosed with Coronavirus, you should immediately contact your local health department and the state department of public health to find out what you should do. You should then tell all dealership employees that they may have been exposed, but you must keep the infected employee's identity confidential.
- **Sick/Quarantined Employee:** If an employee is out because he/she or a family member is sick with the Coronavirus, you must pay him/her for any work he/she does from home. Hourly employees must be paid for actual time worked. Salaried exempt employees must be paid their full weekly salary if they perform any work during a given week (with the caveat that deductions from pay may be made for absence of one or more full days due to sickness or disability, if made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness, such as a PTO policy). If an employee is out and does not work from home, you should pay them according to your sick/paid time off policy. After employees exhaust any paid leave, the dealership does not have to pay them as long as they do not do any work from home.
- **Dealership Closure:** If your dealership is forced to close due to reasons related to the Coronavirus, all employees should be paid according to the dealership's sick/paid time off policies. You must pay **hourly employees** only for the actual hours that they work; if the dealership is closed for longer than their sick or vacation time, you do not have to pay them once such sick or vacation time is exhausted. If an **exempt employee**, you do not have to pay them if the dealership is closed for longer than their sick or vacation time if the dealership is closed for at least an entire work week and the employee performs no work. If the dealership decides to allow exempt employees to work from home while the dealership is closed, or if the dealership is closed for less than a week, exempt employees who work any time during such week must be paid their regular weekly salary. If you do not want your employees to work while at home, you may wish to tell your employees not to work. If you are going to allow hourly or exempt employees to work from home while the dealership is closed, you should require them to keep accurate records of their hours worked and tasks completed.

Communication to Customers

Finally, the lifeblood of your business is your customers. You should consider crafting a communication to your customers that reflects your compassion for those who may be affected by the virus, that you are open for business, and that your business is clean and safe.

In such a communication, detail that you have taken precautionary measures at the dealership to help ensure that your visitors and employees are being protected from the spread of germs and that you have initiated numerous protocols at the dealership beyond



the normal steps you take during the flu season, such as:

- You have installed hand-sanitizing stations throughout the dealership to allow visitors and personnel to clean their hands more frequently;
- You have increased the frequency in which high-volume, high-touch areas, including paper towel dispensers, vanity tops, counters, and door handles, are cleaned;
- Your staff is required to engage in good hygiene by frequently washing their hands with soap and water for at least 20 seconds;
- You are in touch with numerous agencies and your state trade Association, Chamber of Commerce, plus the health departments at the city, state, and federal levels to make sure you receive the latest updates and protocols;
- You have distributed critical information to key staff members and business partners to help prevent communicable sicknesses throughout this dealership; and
- Your showroom offices and demo vehicles are disinfected and cleaned throughout the day - these measures include the use of disinfectant cleaning agents and increased frequency

You need to give your customers the confidence that their health and safety are a top priority at your dealership, and that now, more than ever, you are committed to maintaining a safe environment for everyone who walks through your doors.

Your Association will keep you abreast of any developments as they may occur. This is a fluid situation, but there is no need to panic. A firm commitment to maintaining a safe and clean work environment for your employees and customers will help you navigate this health crisis. Should the situation worsen, please feel free to reach out to us and our employment law partner, Fisher Phillips, if additional guidance is required.

MSADA - YOUR DEALER ANSWER PLACE

If you have any questions regarding this bulletin, please contact Robert O'Koniewski, Esq., MSADA Executive Vice President, by e-mail at rokoniewski@msada.org, or Peter Brennan, Esq., MSADA staff attorney, by e-mail at pbrennan@msada.org, or either by phone at (617) 451-1051.