



BULLETIN #24/2020
March 23, 2020

CORONAVIRUS UPDATE #10

**GOV. BAKER ORDERS NON-ESSENTIAL BUSINESSES TO CLOSE MARCH
24-APRIL 7**

AUTO REPAIR, SERVICE, MAINTENANCE, PARTS DEEMED ESSENTIAL

**BRICK-AND-MORTAR SALES OPERATIONS NOT ESSENTIAL;
CLARIFICATIONS REQUESTED ON CERTAIN SALES TYPES**

[This bulletin supplements our previous Bulletins #11, and #16 through #23 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

Governor Charlie Baker this morning issued an emergency order requiring all businesses that do not provide "COVID-19 Essential Services" to close their physical workplaces and facilities to workers, customers, and the public as of Tuesday, March 24, at Noon until Tuesday, April 7, at Noon. These closed businesses are encouraged to continue operations remotely.

Gov. Baker issued an extensive nine-page list of designated businesses and other organizations that provide what have been deemed to be "essential services" and work forces related to the Coronavirus COVID-19 that are allowed to continue to operate their brick-and-mortar operations during this fortnight shutdown period.

Businesses and other organizations that provide the services and functions identified as essential services are urged to continue operations during the state of emergency but to do so with allowance for social distancing protocols consistent with guidance provided by the state Department of Public Health (DPH).

Under the order, "All businesses and organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities ('brick-and-mortar premises') to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020." These businesses "are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order."

DPH is charged with enforcing the order with the assistance of state and municipal



police. A violation of the order may result in a criminal penalty or a civil fine of up to \$300 per violation. DPH would have the authority to supplement the terms of the order if it determines additional measures are necessary to ensure the terms of the order are observed.

There are eighteen categories of "Essential Services", including "Transportation and Logistics", covered in the Governor's order. **As far as we are concerned for our franchised dealers, activities included in "Essential Services"** amongst other items are "automotive repair and maintenance facilities"; "employees who repair and maintain vehicles,...and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers"; "commercial retail stores that supply essential sectors, including...auto supplies and repair..."; and "workers critical to operating rental car companies and Transportation Network Companies (TNCs) [Uber, Lyft], that facilitate continuity of operations for essential workforces, and other essential travel."

As for sales, clearly the intent of this order is to not have open showrooms with salespeople sitting around waiting for foot traffic and potential buyers. The governor is encouraging remote work and internet-based activities. We do not read anything in the order that can be interpreted to prohibit any and all car sales under any circumstance. You certainly can have an extensive on-line presence and Internet sales activity for your sales department. We would maintain that the sale of a vehicle to one who is in need of transportation, especially a buyer who is employed in one of the nine pages of essential services and needs a car or truck to do his or her job, would be allowed to occur under the order. We would also maintain that the order does not tolerate a dealer operating an open show room with sales persons waiting for customers to engage in the regular stream of commerce. Further, you all will have customers coming off-lease and you will need to address those situations immediately based on the terms of the contract expiration - will the customer buy that vehicle, look to another vehicle as a replacement, or walk away entirely? These situations all need to be addressed over the next two weeks.

To this end, we have requested clarification from the governor's office on these particular types of activities that can arise either through remote-based sales options or on-site as a result of a repair or post-contractual situation. We will keep you posted as the fluidity of these matters progress.

To supplement your knowledge on these matters - see the following:

Here is the Press Release from Gov. Baker's office on today's order:

<https://www.mass.gov/news/governor-charlie-baker-orders-all-non-essential-businesses-to-cess-in-person-operation>

Here is Gov. Baker's order issued today: <https://www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download>



Here is the list of essential services: <https://www.mass.gov/doc/covid-19-essential-services/download>

Two additional points flowing from today's activities:

(1) The governor issued an order today regarding the ability for the next two weeks to keep open essential businesses and the mandated closure of non-essential businesses. Neither the governor nor the order told anyone to lay-off employees. That is a decision for each individual business to make to best suit its own operations. If you are laying off a salaried, exempt manager and he/she did any work for you this week during the pay period, you owe him/her the full salary for the week. If you are laying off non-exempt wage earners this week, you only owe them for the time worked plus any accrued vacation time.

(2) It never ceases to amaze us the level of childish behavior we see from our elected officials in Washington. As of this writing, Congress has failed once again to come together and pass the third Coronavirus stimulus package to aid the American people - small businesses and employees alike, the people who pay the taxes which feed these politicians' salaries. We could not tell you with a straight face what exactly they are fighting over now, but we can make an educated guess that it really has nothing to do with addressing the COVID-19 crisis. But if the goal is to tank the economy completely and to drive our level of confidence in them to even lower levels, they are succeeding enormously. If something does happen, we will surely relay that information to you.

As this Coronavirus struggle plays out over the next several weeks, good luck and be safe. Should you require additional information, please do not hesitate to contact us. Your Association continues to stand ready to assist.

MSADA - YOUR DEALER ANSWER PLACE

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