



BULLETIN #57/2020 MAY 4, 2020

_CORONAVIRUS UPDATE #43

BAKER-POLITO ADMINISTRATION ISSUES GUIDANCE ON VEHICLE SALES PROCESS; SHOWROOMS STILL MUST BE CLOSED FOR NOW

NEW PPP FAQ ADDRESSES NON-RETURNING EMPLOYEE AND LOAN FORGIVENESS CALCULATION

BLUM SHAPIRO WEBINAR, MAY 6: "MAKING SENSE OF UNEMPLOYMENT FOR EMPLOYERS DURING COVID-19"

NADA DEALERSHIP LIFELINE WEBINARS SCHEDULE

MASSACHUSETTS COVID-19 DAILY TRACKER

[This bulletin supplements our previous bulletins #11 and #16 through #56 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

Baker-Polito Administration Tonight Issues Guidance on Vehicle Sales Process

The Baker-Polito administration tonight updated the FAQs portion of its COVID-19 website to address questions we have expressed over the weeks regarding a lack of guidance on acceptable standards as to how to conduct retail sales of motor vehicles with closed showrooms after having been deemed non-essential services.

This evening, the administration inserted two new entries into the FAQs to detail how retail vehicle sales will be authorized to continue, as the re-opening advisory commission works to formulate its recommendations by May 18 on rules for restarting the state's economy. Any re-opening plan that the Baker-Polito administration establishes, based on the commission's recommendations, is expected to take a gradual, phased-in approach over a period of months. Your association filed comments with the commission on May 1.

Although showrooms are still required to be closed, the administration has now laid out specific standards under which sales can occur via the internet and remotely and how vehicle deliveries are to be made. The new standards do not affect repair/service and parts activities, which all along have been deemed essential services and allowed to be open. The new standards are effective as of tonight.

The **first new entry to the FAQs** deals with **car dealership sales activities**:

Can a car dealership be open for car sales? YES, in a limited manner and only if following the guidelines for remote fulfillment, and the specific guidelines for car dealerships below:

- The dealership must remain closed to the public and sales must be conducted *exclusively via phone or online*, and the dealership must follow the remote



exclusively via phone or online, and the dealership must follow the remote fulfillment guidelines specified elsewhere in this guidance document.

- Test drives are not permitted.
- To the maximum extent feasible, processing of documents should occur electronically. Any processing of documents that must occur in person should be done in compliance with social distancing protocols.
- The transfer and delivery and return of vehicles (new or leased or trade-in) may be conducted in person by appointment only at the dealership, or at a customer's residence.
- The dealership service department/garage may continue to operate as an essential service.

The **second new FAQ entry** deals with “**the guidelines for remote fulfillment**” as it now relates to the conduct of retail vehicle sales. (The remote fulfillment standards have been an on-going request of retailers since the issuance of the governor's original closure order in late March.)

Can non-essential businesses bring in a small number of employees in order to remotely fulfill online or phone orders? YES, if following the remote fulfillment guidelines below:

- Facilities must be closed to the public, as the allowance is for the fulfillment of remote sales/orders only.
- Employees may only be engaged in the packaging and delivery/shipping of phone and online orders, not the manufacturing of those product.
- Operating hours must allow for sufficient ongoing off-hour sanitation/cleaning.
- All employees must wear face coverings while on-site.
- All employees must maintain 6 feet social distancing and employers should stagger employees within the facility to ensure social distancing.
- Any deliveries made by employees must be ‘no-contact’ deliveries: items must be left in mailboxes, mailrooms, garages, lobbies, at doorstep, or similar no-contact drop-off points.
- Employers must stagger shift start/stop times and breaks/lunchtimes in order to minimize contact.
- Facilities must have readily accessible hand sanitizer and hand washing facilities for employee use.
- In a closed facility that is used for remote fulfillment:
 - There must be enough space within the facility for all employees present to be able to maintain six feet of social distancing
 - In a facility under 10,000 square feet, a maximum of 3 employees may be allowed on the premises at a time
 - In a facility between 10,000 – 30,000 square feet, a maximum of 5 employees may be allowed on the premises at a time
 - In a facility more than 30,000 square feet, a maximum of 7 employees may be allowed on the premises at a time
- Employee work spaces must be cleaned frequently, following public health guidelines.
- Employers must require employees to self-administer a temperature check prior to beginning each shift. Any employee with any symptoms, including a temperature over 100.0 degrees, must not report to work and should self-isolate, contact their



doctor and follow medical guidance.

- Employees in quarantine, due to exposure to a known case of COVID-19 or someone with COVID-19 like illness, must remain under quarantine for 14 days since day of exposure and not report to work.
- Employers must strictly adhere to any further workplace guidance.
- Facilities found in noncompliance with this order must be closed immediately.
- Facilities unable to fully comply with all of these parameters shall not operate.

Your association will continue the dialogue with the administration to address certain issues arising from these new standards – primarily, at first, is the issue of no test drives. We will inform our member dealers of any adjustments to these standards as they may occur.

The state's Essential Services FAQs can be accessed [here](#).

New SBA, Treasury FAQ Addresses Non-Returning Employee and PPP Loan Forgiveness Calculation

Today Bart Haag of Albin, Randall & Bennett, an MSADA associate member, made note in a communication that the Treasury Department and the Small Business Administration now are issuing regulations regarding the Paycheck Protection Program (PPP) through their FAQs. Over the weekend, the Treasury Department indicated that employers that laid-off or furloughed employees, subsequently offered the employee their position back (at same compensation and hours) in writing, and the employee declined the offer, does not have to include them in the Wages Test (STEP 2 of the ARB PPP Loan Workbook) for PPP loan forgiveness. This is a significant development and could impact an employee's eligibility for continued unemployment. Here is the exact wording of FAQ #40 (the complete set of FAQs can be accessed [here](#)):

“40. Question: Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?

“Answer: No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.”

NADA Dealership Lifeline Webinars Next Week

NADA is working around the clock to make sure dealers have the information they need to combat COVID-19 disruptions. There's no such thing as too many good ideas, so



register ASAP.

• **Tuesday, May 5, 1pm-2pm ET:** [*Digital Marketing Framework for Navigating Uncertain Times*](#). Daniel Kim, CEO of Orbee Auto, and Mario Clementoni, NADA 20 Group consultant, will guide dealerships with digital marketing strategy to turn marketing efforts into car sales. The session will cover how to measure market, store and purchase demand, and specific actions dealerships can take to coordinate their digital marketing strategy.

• **Friday, May 8, 1pm-2pm ET:** [*Accelerating Automotive Trends that Google is Seeing in Times of COVID-19*](#). Lissette Gole, Google's head of Automotive Retail, will do a deep dive on today's faster industry cycle and how dealers can take stay on top of new trends.

Webinar: "Making Sense of Unemployment for Employers during COVID-19" – May 6, 11 a.m. ET

The COVID-19 pandemic has brought about changes to every part of business. One area that has been hit particularly hard has been human resources. From facing staffing issues to understanding new unemployment benefits offered, the challenges for HR professionals seem to grow by the day.

On Wednesday, May 6, at 11:00 a.m., MSADA associate member Blum Shapiro will conduct a webinar *Making Sense of Unemployment for Employers during COVID-19* to give dealers and their HR personnel a better understanding of:

- How Federal & State Unemployment Insurance Programs Work
- The CARES ACT and Enhanced Unemployment Benefits Under COVID-19
- How to Avoid Layoffs With Reduced Hours AKA "Workshare" Programs
- Challenges and Solutions Around Bringing Employees Back to Work
- Managing Unemployment Claims During COVID-19
- FAQs

Please submit your questions regarding this topic in the registration form. Blum Shapiro will organize your submissions and address your questions and concerns during the webinar. To register, [click here](#).

Daily Massachusetts COVID-19 Tracker

For the latest COVID-19 data released today by the Commonwealth of Massachusetts, click [here](#).